

Government of Himachal Pradesh
Department of Higher Education
ORDER

110526
05 MAR 2024

No. EDUB-E05/9/2023

Dated: Shimla-2, the

02-03-2024. 12

Whereas Sh. Surjeet Singh, Principal, was transferred from GSSS Granger, Distt. Chamba to GSSS Bagthan, Distt. Sirmour on administrative grounds and Sh. Surjeet Singh, Principal challenged these transfer orders before the Hon'ble High Court vide CWP No. 1011/2024. The Hon'ble High Court decided the matter on dated 13.02.2024 and the operational part of the judgement is as under:-

"Be that as it may, once the petitioner had made representation, on 06.02.2024 (Annexure P-3), highlighting ventilating his grievances, then, the respondents are bound to consider/examine the grievances and pass appropriate orders, in terms of the mandate of law in the case of Shilpi Bose (Mrs.) and others versus State of Bihar and others, 1991 Supp (2) SCC 659 and in the case of State of U.P. and others versus Gobardhan Lal, (2004) 11 SCC 402.

In the entirety, of the facts and circumstances, this Court, disposes of the present petition, by directing the respondent No. 1 Principal Secretary (Education) to the Government of Himachal Pradesh, to consider/examine the representation dated 06.02.2024 (Annexure P-3), and the supplementary representation to be filed within three days from today; and then, to pass appropriate orders in the matter within a week thereafter, but not later than 22nd February, 2024.

Till the decision of the representation, since the petitioner has already been relieved, thereafter, this Court is not inclined to stay the transfer orders dated 24.01.2024 (Annexure P-1) except than to direct the respondents not to compel the petitioner to join the transferred station GSSS Bagthan, District Sirmour."

2. Whereas, through his representation the petitioner has submitted that he was having short stay and is left with less than two years for his retirement, he has also submitted that his wife is also working as Language Teacher and is due for retirement on 31.07.2024 therefore also considering couple case he may be adjusted at GSSS Guniala or GSSS Bagdhar, Distt. Chamba..
3. Whereas, the brief facts of the case are that there were complaints against the petitioner on which enquiry was conducted by the DDHE Chamba through enquiry officer in which the

Dr. Gopal
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complaint as made by the complainant in prima facia appeared to be correct. Further, the enquiry officer has observed following points after conducting the enquiry:-


- (a) That, the political function has been organized in the school campus in 2022 as per photographs, when the applicant was holding the post of Principal of the school.
 - (b) That, the appointment of SMC President has been made contrary to the rules laid down in HP Education Code-2012, Dated 21/03/2012- Chapter-2 Rule- 2.33(b)5(iii) of pages 25-26.
 - (c) That, after conducting the enquiry ascertaining the facts of the case from both parties, the I.O. has concluded that Sh. Surjeet Singh, Principal, GSSS Granger, Distt. Chamba may be transferred to another station as early as possible so that academic environment of institute be restored.
4. Thereafter, the Director of Higher Education has noticed that during the year 2022, a Political function was organized in the School premises of Govt. Senior Secondary School Granger (Chamba) with the consent of petitioner and also the elected body of the Gram Panchayat was ignored. The DHE has also observed that the Political function organized in the School premises was totally aimless and shows the involvement of petitioner in political activities. This act of the petitioner was unbecoming of Government servant/Head of Institution and his act was viewed seriously. However, taking a lenient view the Director of Higher Education had issued a warning to the petitioner vide letter dated 06.01.2024.
 5. Whereas, when the matter was brought to the notice of this office service record of the petitioner was sought. From the perusal of the service record of the petitioner it is evident that the petitioner has been serving in Chamba district since 29.09.1993, when he joined Government job. Further, the petitioner in his service career of 30 years, he has served in tribal area for a period of 9 months only on his initial appointment. It was also noticed that the petitioner has remained posted in the GSSS Granger, Distt. Chamba, for 12 years approximately.
 6. Whereas, keeping in view the complaints against him and ■ Inquiry Report, keeping in view the fact that he has been posted in Chamba during his entire service he was transferred to GSSS Bagthan, Distt. Sirmour. GSSS Bagthan does not falls under hard or

tribal area. Further, now through his representation the petitioner is seeking adjustment at GSSS Guniala or GSSS Bagdhar, Distt. Chamba both of which are near the station from where he has been transferred on administrative grounds.

7. Whereas, the Hon'ble High Court has directed to consider and examine the grievances of the petitioner in terms of the mandate of law in the case of Shilpi Bose (Mrs.) and others versus State of Bihar and others, 1991 Supp (2) SCC 659 in which the Hon'ble Apex Court has observed that "*A Government Servant holding a transferrable post has no vested right to remain posted at one place or the other he is liable to be transferred from one place to the other*" and further in the case of State of H.P. and others versus Gobardhan Lal, (2004) 11 SCC 402 Hon'ble Apex Court has again observed that "*It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfer or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospectus such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.*"

7. Since Sh. Surjeet Singh was transferred from Chamba on complaint, after inquiry, it will be in his interest and in the interest of the department and in public interest in general if he moves out of his home district. Further, he should be away from controversies.

8. Therefore, the undersigned after considering the facts and circumstances as narrated above finds that the transfer orders of Sh. Surjeet Singh, Principal have been issued, after considering his service record and his conduct, on administrative grounds and in public interest. Therefore, his request for adjustment at the place of his choice can not be considered, hence rejected accordingly.


(Rakesh Kanwar), IAS
Secretary (Education) to the
Government of Himachal Pradesh

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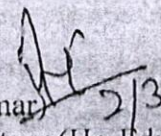
**Sh. Surjeet Singh, Principal,
U/T from GSSS Granger, Distt. Chamba to
GSSS Bagthan, Distt. Sirmour.**

Endst. No as Above Dated Shimla-2 the

02-03-2024.

Copy is forwarded to the following for information/necessary action.

1. The Director of Higher Education, H.P. Shimla-1 for uploading the same on the official website of the Department.
2. The Joint Secretary (Education) to the Govt. of HP w.r.t. CWP No. 1011 of 2024.
3. The Deputy Director of Higher Education Chamba with the direction to ensure the delivery of this order to the concerned Principal, H.P.
4. Guard file.


(Anil Kumar) 2/3
Under Secretary (Hr. Education) to the
Government of Himachal Pradesh