

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.5722 of 2026

Decided on: 7th October, 2026

Jagdish Chand

.....**Petitioner**

Versus

State of H.P. and Ors

.....**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Rajiv Rai, Advocate.

For the Respondents: Mr. Rajat Chaudhary, Assistant
Advocate General for respondents No. 1
to 3.

Mr. Dilip Sharma, Sr. Advocate, with
Mr. Manish Sharma, Advocate, for
respondent No.4.

Jyotsna Rewal Dua, Judge

Petitioner and respondent No.4 are serving as
Assistant Professor (Physics) (College Cadre) in the
respondent-Education Department. Respondent-State
issued a notification on 17.04.2026 transferring the
petitioner from Government Degree College, Solan to RKMV,
Shimla vice respondent No. 4 who was brought in place of

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

petitioner from RKMV, Shimla. Petitioner has grievance to his transfer ordered vice-versa to respondent No. 4.

2. Learned counsel for the petitioner alleges that impugned order has been issued on the basis of a D.O. note. It was further submitted that though the petitioner has completed more than five years of stay at Government Degree College, Solan, however, petitioner is to superannuate on 30.06.2027. As of now, just about nine months are left in his retirement. At the time of issuance of impugned notification, petitioner had about 18 months of service tenure left with him. Pursuant to the interim order passed in the writ petition on 21.04.2026, petitioner is presently continuing to serve at Government Degree College, Solan. The said order is as under:-

"Mr. Pushpinder Jaswal, learned Additional Advocate General, accepts notice on behalf of respondents No.1 to 3. Notice be issued to respondent No.4, returnable for 21.05.2026, on taking steps within one week.

List on 21.05.2026. Reply on behalf of the contesting respondents in the meanwhile.

CMP No.8135 of 2026

Notice in above terms. Learned counsel for the petitioner submits that, though, the petitioner has completed his normal tenure at Solan, but, as the petitioner shall be superannuating in less than 1 ½ years, his transfer at this stage is not in terms of the transfer policy.

In light of the contention of the petitioner that he has been transferring ignoring that the petitioner has left with less than 1 ½ years of service, till further orders, the operation of impugned transfer order qua the petitioner and the private respondent is hereby stayed. Petitioner shall be allowed to continue serve at Solan and the private respondent shall be instructed to serve at RKMV Shimla de-hors whether they have been relieved

or not. In other words, status quo ante, as it existed before the passing of impugned order dated 1704.2026, shall be maintained qua the petitioner and the private respondent. In the meanwhile, the petitioner may otherwise approach the Authority for his adjustment at some other station nearby to Solan."

3. Reply to the writ petition has been filed by respondent No 4. Respondents No. 1 to 3- State, has not filed reply. Learned Assistant Advocate General, however, has placed on record office instructions dated 07.10.2026, placing on record incumbency positions of petitioner and respondent No. 4. Incumbency position of petitioner is as under:-

Sr. No.	Name of Institution	Date of joining	Date of relieving
1	Govt. College Sarkaghat, Mandi	11.06.1999	26.04.2006
2	Govt. College Sanjauli	29.04.2006	18.08.2009
3	Govt. College Solan	20.08.2009	21.09.2012
4	Govt. College Sanjauli	21.09.2012	30.01.2016
5	Govt. College Solan	30.01.2016	10.01.2019
6	Govt. College Nerwa	12.04.2019	03.07.2021
7	Govt. College Solan	05.07.2021	Till date

The above tabulation shows that most of his service career has been spent by the petitioner either at Solan or in Shimla. Incumbency position of respondent No. 4 is as under:-

Sr. No.	Name of Institution	Date of joining	Date of relieving
1	Govt. College R/Peo Kinnaur,	21.12.2009	08.08.2013
2	RKMV College Shimla	10.08.2013	08.11.2016
2	Govt. College Solan	09.11.2016	03.07.2020
4	RKMV Shimla	03.07.2020	18.04.2026
5	Govt. College Solan	19.04.2026	22.04.2026
6	RKMV Shimla	23.04.2026	Till date

The table above makes it evident that respondent No 4 has also served most of his service career either at Shimla (RKMV) or in Solan.

3(i) Learned senior counsel for respondent No. 4 submits that respondent No. 4 belongs to Palampur, but his family resides at Solan; Respondent No. 4's wife is serving as lecturer at GSSS Dharampur, Solan; Respondent No. 4's children are also studying in school in Solan. That respondent No. 4 on 04.10.2025 was diagnosed with ligament tear "*Anterior Cruciate Ligament*" of left knee accompanied by mild bone contusions, joint effusion & popliteal cyst', and has been undergoing regular check-ups and treatment from PGIMER, Chandigarh. Medical prescription slips/treatment record up till the month of February 2026 has been placed on record alongwith reply filed on 09.07.2026.

3(ii) Learned senior counsel for respondent No.4 has opposed the writ petition, primarily relying upon ***Narender Bhota vs. State of HP and others***², ***Shabnam vs. State of HP and others***³ and ***Kripa Ram vs. State of***

² CWP No 1420 of 2023, decided on 28.03.2023

³ CWP No 2624 of 2022, decided on 18.09.2022,

HP and others⁴. It has been submitted that petitioner is holding Class-I post, therefore, norms laid down by the respondent-State in Comprehensive Guiding Principles 2013 to exempt Class-III and Class-IV employees having less than two years of service prior to their date of retirement from transfer, are not applicable to him; Petitioner has completed much more than normal tenure at his current place of posting, the ground of impugned order having been issued on the basis of DO note is also not available to him; Having completed his normal tenure at his present place of posting, it is not for the petitioner to complain as to on whose request his transfer order came to be issued.

4. From the incumbency positions of petitioner and respondent No. 4 placed on record by the respondent-State, it becomes quite clear that both of them probably have been beneficiaries of DO notes in the past, and have managed to remain posted either in Solan or in Shimla. Respondent No. 4, save and except for his initial period of service at Government College, Rekonig Peo, Kinnaur, has only served in two colleges till date, that is, either RKMV, Shimla, or Government Degree College, Solan. Respondent

⁴ CWP No. 2026 of 2019, decided on 21.11.2019

No. 4, though has endeavoured to make out a case that on account of injury suffered by him in October 2025 he needs to undergo regular check-ups at PGI, Chandigarh, and for that reason had requested the State to transfer him to Solan, and accordingly, his request was accepted and he was transferred under the impugned order vice petitioner at Solan. However, there is no document/ certificate on record to reflect that on account of such injury, petitioner is required to be posted at Solan, or even to the effect that he is still undergoing regular check-ups from PGI, Chandigarh. Even assuming that respondent No. 4 is still taking regular treatment from PGI, Chandigarh, then also his posting at Solan or Shimla will not make any difference in that regard. Apparently, the only reason for respondent No. 4's strong desire to remain at Solan appears to be his family residing at Solan. Be that as it may, respondent No. 4 is holding Class-I post and belongs to State Cadre. He does not enjoy a vested right to remain posted only in Solan and Shimla, which he has managed to do till now. Therefore, insofar as respondent No. 4's posting is concerned, the issue is left for appropriate decision by respondent No. 1. Respondent No. 1 is directed to consider the case of transfer of respondent no.4 again. Fresh order in respect of transfer of respondent

No.4 be passed keeping in view all relevant factors including his incumbency position as also genuineness or otherwise of medical issues raised by him in the reply. The order in this regard be passed within two weeks i.e. by or before 26.10.2026.

Though in view of incumbency position of petitioner, this Court would have interfered in respect of posting of the petitioner to a place other than Solan or Shimla, and would have directed respondent No. 1 to consider posting the petitioner to a place other than Solan or Shimla, however, taking note of the fact that petitioner is due to superannuate on 30.06.2027, only on account of impending retirement of the petitioner, this recourse is not adopted.

With the above observations, this writ petition is disposed of.

Pending miscellaneous application(s), if any, also to stand disposed of.

October 07, 2026
R.Atal

Jyotsna Rewal Dua
Judge