

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.5455 of 2020
Decided on: 28thJuly, 2026

Hira Singh ...Petitioner

versus

State of H.P. and others ...Respondents

Coram

Hon’ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Anil Chauhan and Mr. Dinender Panwar, Advocates.

For the respondents: Mr. Rupinder Singh Thakur, Additional Advocate General for respondents No.1 to 5-State.

None for respondents No.6 & 7.

Jiya Lal Bhardwaj, Judge(Oral)

By way of present petition, the petitioner has
prayed for the following substantive reliefs:-

- “a) That the impugned order dated 15.07.2019 Annexure P-7 and resolution School Management Committee Nagan Pulbahal, Teh. Chopal, Distt. Shimla H.P. dated 02.04.2019 Annexure P-1 be kindly quashed and set aside.

- b) That direction may kindly be issued to respondents No. 1-4 and respondent No. 6 & 7 that consider the report of principal Government Senior School Pulbahal Annexure P-4 and continue the services of petitioner at his present place of posting i.e. Government High School Nagan being a senior cook.

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

- c) That direction may kindly be issued to respondents inquire and settle the matter of petitioner as soon as possible.
- d) That direction may kindly be issued to respondent No. 5 i.e. Headmaster Government High School Nagan allow the petitioner to mark his attendance.
- e) That direction may kindly be issued to respondent to release the due salary of petitioner.”

2. The facts as emerge from the pleadings are that the petitioner was appointed by respondent No.6 as Cook-cum-Helper for Mid-Day Meal in Government High School, Nagan Pulbahal, District Shimla H.P., where he joined his duties on 31.05.2012. After one month, respondent No.7 was appointed on 02.07.2012 on the same post in the school as the strength of students was increased.

3. On 02.04.2019, a meeting of School Management Committee (in short ‘SMC’) of Government High School, Nagan, Tehsil Chopal, District Shimla, H.P. was convened and it was decided to transfer the petitioner to Government Primary School, Nagan, Tehsil Chopal, District Shimla, H.P. Against the said resolution passed by the SMC, the petitioner made a complaint dated 27.04.2019 (Annexure P-2) to respondent No.3, a copy whereof was also forwarded to the Sub-Divisional Magistrate (in short ‘SDM’) Chopal. Upon receipt of the complaint, SDM, Chopal wrote a letter dated

03.05.2019 (Annexure P-3) to respondent No.5 to look into the matter and on the direction of respondent No.3 and respondent No.2, respondent No.4 enquired into the matter and submitted the report dated 15.06.2019 (Annexure P-4), wherein it was mentioned that the petitioner was appointed earlier to respondent No.7.

4. As per communication dated 15.07.2019 (Annexure P-7), the petitioner was asked to report for his duties in GPS, Nagan. The petitioner feeling aggrieved by the resolution dated 02.04.2019 (Annexure P-1) and letter dated 15.07.2019 (Annexure P-7) has approached this Court *inter alia* on the grounds that in case he was shifted, he would have become junior and further on declining of enrollment of students, the principle of 'last-come-first-go' was to be followed, whereas respondent No.6 in connivance with respondents No.5 and 7 has passed the order transferring the petitioner. It has further been averred that as per the guidelines for hiring of services of Cook-cum-Helper under Mid-Day Meal Scheme by the SMC in Himachal Pradesh, if the enrollment of the students is between 26 to 100, two numbers of Cook-cum-Helpers can be allowed. In the report submitted by respondent No.4, it has come that the petitioner

was appointed earlier to respondent No.7. The said report was forwarded to respondent No.2. Thereafter, as per communication dated 15.07.2019 (Annexure P-7), respondents No. 5 and 6 transferred the petitioner from Government High School to Government Primary School Nagan, as per resolution of the SMC dated 02.04.2019 (Annexure P-1). It has also been averred that the impugned action of transferring the petitioner was undertaken with a view to oust him from service because in Government Primary School, Nagan, there is not much strength of students to justify his continuation at the said school. It has further been averred that respondents No.5 and 6 had deliberately violated the orders of their superiors and the matter regarding the petitioner is still to inquire and investigate. He belongs to Below Poverty Line (in short 'BPL') family and has only source of livelihood from the service. The petitioner has not been paid salary since 01.03.2019 till date and as such his family is on the verge of starvation.

5. Though, respondents No. 6 and 7 have been served for 29.10.2021, when they had appeared before the Deputy Registrar (Judicial), but thereafter they had neither appeared nor filed reply.

6. Respondents No.1 to 5 filed short reply and averred that the petition against them is not maintainable, because the Mid-Day Meal Workers (Cook) were engaged and disengaged by the SMC. Therefore, they have no role in the matter and the cause of action pertains to respondent No.6 i.e., SMC Government High School, Nagan.

7. I have heard the learned counsel for the petitioner as well as learned Additional Advocate General representing respondents No.1 to 5 and also gone through the record carefully.

8. No doubt, the petitioner was appointed as Mid-Day Meal Worker on 31.05.2012 in Government High School, Nagan, District Shimla, H.P., but his engagement as per the policy was by the School Management Committee. As per resolution dated 02.04.2019, the petitioner was transferred to Government Primary School, Nagan, but he did not join his duties. Thereafter, vide communication dated 15.07.2019 (Annexure P-7), he was again asked to report for his duties in Government Primary School, Nagan, but despite that he did not join and approached this Court by way of present petition in the month of November, 2020 i.e. after more than one year and four months.

9. Learned counsel representing the petitioner has vehemently argued that as per the guidelines for hiring of services of Cook-cum-Helper under Mid-Day Meal Scheme by the SMC, Himachal Pradesh, the petitioner could not have been transferred. However, this submission cannot be accepted for the reason that the petitioner was appointed by the SMC in Government High School, Nagan and he was transferred to Government Primary School, Nagan, where he should have joined and thereafter could have approached this Court. The plea taken by the petitioner that the impugned resolution was passed with a view to oust him from service, is nothing but an attempt to give explanation. He was not interested to join at Government Primary School, Nagan. It is not the case of the petitioner that he was not aware about the resolution dated 02.04.2019 and communication dated 15.07.2019. The petitioner has approached this Court only in the month of November 2020 i.e. after more than one year and four months and there is no explanation coming forth that why did he not come immediately after issuing the last communication dated 15.07.2019, whereby he was asked to join at Government Primary School, Nagan.

10. As already observed, the petitioner after joining at Government Primary School, Nagan could have come before the Court with submission that though he has joined at the transferred place, but as per the guidelines issued for hiring of services of Cook-cum-Helper under Mid-Day Meal Scheme by the SMC, his services could not have been transferred. The petitioner had taken the matter casually and leisurely and approached this Court after more than one year and four months, challenging the resolution dated 02.04.2019 as well as communication dated 15.07.2019.

11. No doubt respondents No. 6 and 7 have not filed the reply to the petition, but at the same time, the Court even as per the averments and the documents placed on record is not satisfied to grant any relief to the petitioner especially when he did not obey the transfer order dated 15.07.2019 and approached this Court on 20.11.2020. Therefore, in view of the above facts, no relief can be granted to the petitioner.

12. Consequently, I do not find any merit in the present petition and same is accordingly dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

28th July, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge