IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 3754 of 2020.
Date of Decision : September 21, 2020.

Neelam Pathania ...Petitioner.

Versus

State of H.P. & Others ...Respondents.

Coram:

The Hon'ble Mr. Justice L. Narayana Swamy, Chief Justice
The Hon'ble Mr. Justice Anoop Chitkara, Judge.

Whether approved for reporting?[1] *No.*

For the petitioner : Mr. Vinod Chauhan, Advocate.

For the respondents : Mr. Ashok Sharma, A.G. with Mr. Adarsh Sharma & Ms. Rita Goswami, Addl. A.Gs., for respondents No.1 to 3.

COURT PROCEEDINGS CONVENED THROUGH VIDEO CONFERENCE

Anoop Chitkara, Judge. (Oral)

A lecturer of Physics, who has only eleven months to retire, has come up before this Court seeking quashing of her transfer order dated 24.7.2020, whereby she was further transferred from DIET Dharamshala, District Kangra to Government Senior Secondary School, Tarsooh, District Bilaspur, H.P.

2. Notice. Mr. Adarsh Sharma, learned Additional Advocate General appears and accepts service of notice on behalf of respondents No.1 to 3.

3. In view of the nature of the order, we propose to pass, no response is required from the respondents.

4. The petitioner had earlier approached this Court vide CWP No.3256 of 2019. Vide Order dated 6.1.2020, this Court had disposed

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

of the petition reserving liberty to her to represent her grievances to the respondents.

5. After that the Director of Higher Education, Himachal Pradesh, second respondent herein, gave personal hearing to the petitioner and vide detailed order dated 8.9.2020, transferred her to Government Senior Secondary School, Tarsooh, District Bilaspur, H.P. The petitioner is not satisfied with this transfer mainly on the grounds that it is at a distance of 250 kilometers from her present place of posting and secondly that she is due to retire in August 2021, and needs to be adjusted suitably in view of clause 5.5 of the Comprehensive Guiding Principles-2013 (Transfer Policy).

6. The petitioner is Class-I Officer and Clause 5.5 of the transfer policy is not applicable to Class-I post, as far as suitable adjustment within two years to retire is concerned. Without commenting upon its application to the Class-I employees, it is sufficient to mention that to adjust the petitioner at a distance of 250 kilometers away from the present place of posting and that too when she has less than two years to retire on the face of it, is harsh.

7. In the entirety of facts, we direct respondents No.1 to 3 to consider her transfer to some of suitable place, which she may point out, provided at that post the incumbent has completed the normal tenure as well as there is no restriction to transfer such incumbent, as per the transfer Policy. Let petitioner make representation, pointing out such stations to the second respondent, within two weeks from

today and if such representation is made, the second respondent shall consider the same, within two weeks thereafter and pass appropriate orders. We hope and trust that the second respondent shall consider the representation of the petitioner sympathetically. Till then the petitioner shall not be relieved and in case already relieved, she may not be compelled to join the transferred station and is permitted to avail the leave of the kind due. Pending application(s), if any, are closed.

(L. Narayana Swamy)
Chief Justice.

(Anoop Chitkara),
Judge

September 21, 2020 (ps)