# IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 6040 of 2020
Decided on: 30.12.2020

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Kamlesh Chaudhary …Petitioner.

Versus

State of Himachal Pradesh & others ….Respondents.

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Coram:

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.
The Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?[1] Yes.

For the Petitioner: Mr. Anup Rattan, Advocate.

For the Respondents: Mr. Ashwani Sharma, Addl.A.G for respondents No.1 to 3.

Mr. Vishwa Bhushan, Advocate, for respondents No. 4 and 5.

(Through Video Conferencing)

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Sureshwar Thakur, J (oral)

After serving for about three years at the station concerned, the writ petitioner, casts a challenge to the transfer order, borne in Annexure P-4. The afore tenure of three years hence completed, by the writ petitioner, at the station concerned, confers a valid right upon the employer of the writ petitioner, to make an order of transfer hence upon him.

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[1] Whether reporters of the local papers may be allowed to see the judgment?

2. Be that as it may, the writ petitioner has thrown a challenge to the impugned transfer order, on, the singular ground, of its not emanating from an approval being granted thereto, by the highest executive authority, of, the State of Himachal Pradesh. However, the vigor of the afore submission, becomes denuded, from scribed instructions, being placed on record by the learned Deputy Advocate General, wherein recitals occur qua the impugned transfer order, being made rather with the approval of the highest executive authority concerned.

3. Nonetheless the learned counsel for the writ petitioner has yet proceeded, to contend that since, he has been replaced, by a contractual employee, and, there being a ban against his being replaced by a contractual employee, hence the impugned transfer order, becoming ingrained with a vice of illegality. Even though, the afore argument, would become eroded of legal effect, if any, upon this Court, for the afore reasons validating the impugned transfer order, and, also its proceeding to direct, the respondents to ensure, the, replacement of the writ petitioner, rather with a regular employee. However, since the learned counsel, for the private respondent has alluded, to Annexure P-3, and wherein a recital occurs, that, a contractual employee hence

completing three years of service, is, to be treated at par, with a regular employee, and, also when he further on instructions, submits that the private respondent, has completed the afore tenure of contractual service at the station concerned, thereupon, also the private respondent can hence proceed to replace the writ petitioner hence a regular employee, at the station concerned.

In view of the above, there is no merit in the petition, and, the same is accordingly dismissed. All pending applications stand disposed of accordingly.

( Sureshwar Thakur),
Judge.

30th December, 2020
(priti)

( Sandeep Sharma ),
Judge.