

**Government of Himachal Pradesh
Technical Education Department**

No. EDN(TE)E(1)6/2018 Dated: Shimla-2, the 09th May, 2018

ORDER

In the matter of :-
In O.A. No. 1888/2018

Raj Kumar son of Jagdish Chand aged about 40 years, resident of village Malot, Post office Lehri Sarail, Tehsil Ghumarwin, District Bilaspur, HP working as Senior Lecturer (Applied Science & Humanities) in Govt. Polytechnic Hamirpur, HP.

.....Applicant

Versus

1. State of H.P. through Principal Secretary (Technical Education) to the Govt. of H.P. Shimla-171002.
2. Vibha Sharma, Senior Lecturer (Applied Science & Humanities), Govt. Polytechnic Talwar, Distt. Kangra, H.P.

.....Respondents

The Hon'ble Himachal Pradesh Administrative Tribunal vide its order dated 16.04.2018 in O.A.No. 1888/2018 has disposed of the Original Application with the stipulation that subject to the applicant making a detailed representation, supported by documents alongwith certified copy of this order, highlighting the above aspects and with a request for cancellation of the transfer in the first instance or suitable adjustment to Respondent No. 1, through the Principal Secretary (TE) to the Govt. of HP, within three days from today, who shall consider and decide the same in accordance with law, sympathetically and the transfer policy framed by the State Government by 15th May, 2018, after affording an opportunity of being heard to the applicant as well as private respondent No. 2.

However in the meanwhile, in case the applicant has not already been relieved as on 13.04.2018 (the date of institution of the original application), further action in that regard shall be deferred till decision of the representation. The original application stands disposed of in the above terms."

2. Accordingly, Shri K.B. Khajuria, Counsel for the applicant has made a representation dated 24.04.2018 to the undersigned stating that the applicant joined the Department as Lecturer on 03.02.2009 and he was posted in Government

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Polytechnic Chamba. Thereafter, in the month of June, 2012 he was transferred to Government Polytechnic Kangra. Further, on 09.05.2014, the applicant was promoted as Senior Lecturer and posted at Government Polytechnic Hamirpur. Now the private respondent managed her transfer in place of the applicant and vide notification dated 07.03.2018, the applicant has been ordered to be transferred from Government Polytechnic Hamirpur to Govt. Polytechnic Talwar on the basis of the recommendation of the higher ups. Further the Respondent No. 2 was promoted on 09.10.2017 and on promotion she was posted at Govt. Polytechnic Talwar, District Kangra and after 05 months she has managed her transfer in place of the applicant just to harass the applicant on the basis of the recommendation of the higher ups, which is in violation of the judgment passed by the Hon'ble High Court as well as by the Hon'ble Apex Court. It has been further submitted that the applicant is already serving at Hamirpur, which is at a distance of more than 35 KMs from the native place of the applicant and now the applicant has been transferred at a distance of more than 40 KMs. further from Hamirpur. The applicant has to look after the old aged parents. The son of applicant is 3 months old and daughter of the applicant is 4 years old. If the applicant is transferred to a distant place more than 75 KMs, in that eventuality, the applicant will not be able to look after his family members. It has been requested to cancel the transfer order of the applicant and allow the applicant to continue at Government Polytechnic Hamirpur.

3. The facts of the case are that the applicant was promoted to the post of Senior Lecturer (Applied Science & Humanities) vide Notification No. EDN(TE)B(2)3/2014 dated 30.04.2014 and posted in Government Polytechnic Hamirpur. He joined his duties as Senior Lecturer (Applied Sciences & Humanities) on 09.05.2014 and continued there for a period of 3 years 9 months 26 days. Thereafter Smt. Vibha Sharma, Senior Lecturer (Applied Sciences & Humanities) was transferred from Government Polytechnic Talwar, District Kangra to Government Polytechnic Hamirpur vice Shri Raj Kumar, Senior Lecturer (Applied Sciences & Humanities) and vice versa vide Notification dated 07.03.2018 (Annexure-I) on medical grounds as she is suffering from CKD Stage-III and is under treatment in the Department of Nephrology (Renal

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Clinic) from Postgraduate Institute of Medical Education and Research, Chandigarh w.e.f. 10.09.2016. Accordingly she was relieved from Government Polytechnic Talwar on 08.03.2018 and she joined at Government Polytechnic Hamirpur on 08.3.2018 (AN). Thereafter the applicant filed O.A. No. 850/2018-Raj Kumar Vs. State of HP & ors, in which the Hon'ble Himachal Pradesh Administrative Tribunal passed orders on 09.03.2018 and accordingly applicant as well as Respondent No. 2 was heard in personal on 03.04.2018 and the representation of applicant was rejected vide orders dated 03.04.2018 passed by the Undersigned.

4. That Applicant in the present O.A. has sought relief that the original application may kindly be allowed and impugned notification dated 07.03.2018 and rejection order dated 03.04.2018 may kindly be quashed and set aside.

5. The applicant further sought interim relief that during the pendency of the present Original Application the impugned order dated 17.03.2018 and order dated 03.04.2018 may be stayed during the pendency of the Original Application.

6. That the Hon'ble Himachal Pradesh Administrative Tribunal vide order dated 16.04.2018 has disposed of the Original Application with a direction to Respondent No. 1 to consider and decide the representation of the applicant in accordance with law, sympathetically and the transfer policy framed by the State Government by 15th May, 2018, after affording an opportunity of being heard to the applicant as well as private respondent No. 2.

7. I have gone through the entire record and have found that Smt. Vibha Sharma (Respondent No. 2) has been relieved on 08.03.2018 (FN) from Govt. Polytechnic Talwar, District Kangra and has joined on 08.03.2018 (AN) at Govt. Polytechnic Hamirpur. Further, the applicant, Shri Raj Kumar, Senior Lecturer (Applied Sciences & Humanities) has been relieved from Government Polytechnic Hamirpur on 19.04.2018 (A.N.) and has joined at Govt. Polytechnic Talwar, Distt Kangra on 20.04.2018(F.N.). As such the relief sought by the applicant has become infructuous and


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technically transfer orders cannot be cancelled at this stage, as both the incumbents have already joined at their respective place(s) of posting. Thus the entire representation of the applicant seems to be have been misleading and finds no merits.

8. Now therefore, undersigned after careful consideration of the facts and circumstances of the case, is of the considered view that the request of Shri Raj Kumar, Senior Lecturer (Applied Sciences & Humanities) to cancel his transfer from Government Polytechnic Hamirpur to Government Polytechnic Talwar, District Kangra cannot be acceded to being devoid of merits in view of discussions herein above.

Copy of the order be supplied to the applicant through registered post, Director, Technical Education, HP, Sundernagar as well as Principal, Government Polytechnic Hamirpur and Talwar, Distt. Kangra.

Place: Shimla-2
Dated: 09th May, 2018


(Sanjay Gupta)
Principal Secretary (TE) to the
Government of Himachal Pradesh

Registered Letter
Shri Raj Kumar,
Sr. Lecturer (Applied Sciences & Humanities)
Government Polytechnic Talwar,
Distt Kangra(HP).

Endst. No. EDN(TE)E(1)6/2018 Dated: Shimla-2, the 09th May, 2018
Copy for information & necessary action is forwarded to:-

1. The Advocate General, Himachal Pradesh, Shimla-171002 in compliance to orders passed on 16.04.2018 in O.A. No. 1888/2018.
2. The Director, Technical Education, Vocational & Industrial Training, HP, Sundernagar, District Mandi (HP) PIN-175018.
3. The Principal, Government Polytechnic Hamirpur (HP).
4. The Principal, Government Polytechnic Talwar, Distt Kangra (HP).
5. Smt. Vibha Sharma, Sr. Lecturer (Applied Science & Humanities), Govt. Polytechnic Hamirpur (HP).
6. Guard file.

(Paramjeet Singh)
Under Secretary (TE) to the
Govt. of Himachal Pradesh.
Phone-0177-2622217