

**Government of Himachal Pradesh
Technical Education Department**

No. EDN(TE)E(1)17/2017 Dated: Shimla-2, the 24th April, 2017

ORDER

In the matter of :-
In O.A.(M) No. 117/2017

Dr. Prakash Chand Chopra S/o Shri Nek Ram Chopra, R/o Opposite Civil Hospital, Ghumarwin, District Bilaspur, H.P., at present Assistant Professor (Head of Department Applied Sciences & Humanities), J.N. Engineering College, Sundernagar, Tehsil Sundernagar, District Mandi, HP .

.....Applicant

Versus

State of Himachal Pradesh through Principal Secretary (Technical Education), Govt. of Himachal Pradesh, H.P. Secretariat, Shimla-2.

.....Respondent

The Hon'ble Himachal Pradesh Administrative Tribunal vide its order dated 20.04.2017 in O.A.(M) No. 117/2017 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 suitable adjustment to respondent No. 1 through the Principal Secretary (Technical Education) to the Government of Himachal Pradesh, 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 30th April, 2017, after affording an opportunity of being heard to the applicant. As the applicant is stated to have already been relieved, he may not be compelled to join the transferred station and avail leave of kind due till decision of the representation. The original application stands disposed of in the above terms. Copy dasti.

2. Accordingly, the applicant has made a representation dated 20.04.2017 to the undersigned stating that he was deployed in August, 2006 in J.N. Govt. Engineering College Sundernagar and subsequently promoted to the post of HOD(Applied Sciences & Humanities) and further taken on secondment basis. He was kept on secondment basis and not absorbed in Engineering College

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by relaxing R&P Rules, as per Clause-18. He was not allowed deputation or other allowance, as per deployment scheme. He has further submitted that the post of Assistant Professor/Associate Professor equivalent to HOD(Applied Sciences & Humanities) are lying vacant in the J.N. Government Engineering College, Sundernagar and his secondment has been wrongly and illegally cancelled vide order dated 18.03.2017, whereas he was to be absorbed. The step of cancellation of his appointment on secondment basis at J.N. Govt. Engineering College is a pre-mature step. He has submitted this representation in compliance to orders passed by Hon'ble Himachal Pradesh Administrative Tribunal on 20.04.2017. Further it has been submitted that his son is pursuing his studies of B.Sc. 2nd at Sundernagar, District Mandi and it is very difficult to shift from the present place. He has requested that keeping in view the detailed submissions made, his representation may be considered sympathetically and his may be either allowed to continue at the present place of posting or be adjusted at Government Polytechnic College Udaipur, District Lahaul Spiti, at Sundernagar, District Mandi.

3. The facts of the case are that the applicant Dr. Prakash Chand Chopra has been appointed as Lecturer (Applied Sciences & Humanities) Mathematics in the Department of Technical Education vide notification dated 25.05.1995 and he joined on 30.05.1995. Due to urgent requirement of teaching faculty in first newly established Government Engineering College Sundernagar and considerable time required for framing of R&P Rules of the created posts of the teaching faculty, the services of applicant alongwith other incumbents were taken over on deployment basis from the Polytechnic Wing of the Department to Government Engineering College Sundernagar. After framing of the R&P Rules, the Respondent Department sent requisition to Himachal Pradesh Public Service Commission for filling up of various posts and the Commission recommended the names of Ms. Champa Devi, Shri Ajnesh Singh, Assistant professor (Chemistry), Ms. Sunita Kumari, Assistant Professor (Mathematics) and Shri Desh Raj, Asstt. Professor (Physics). In view of these appointments in Government Engineering College, Sundernagar, the services of incumbents deployed /taken on secondment basis from Polytechnic Wing are not required.

4. The posts of HOD(Applied Sciences & Humanities) were filled in Government Polytechnic Sundernagar, Kullu, Hamirpur, Bilaspur, Kangra,

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Kandaghat and Talwar, whereas posts at Government Polytechnic Banikhet, Chamba, Paonta Sahib, Rohru, Kinnaur and Ambota were lying vacant since 2014. On one hand, 02 faculties of Mathematics, Chemistry, Physics (in each subjects) were giving their services in Government Engineering College Sundernagar and on the other hand, no HOD of this stream was available in above Polytechnics. The Respondent Department taking an administrative decision has cancelled such deployment/secondment/ mal-adjustments and posted these HODs in the institutions, where posts were lying vacant since year 2014, in view of administrative exigencies of their services in the Polytechnic Wing, in the interest of students of Polytechnics, so that study and training work of the students studying may not adversely affect. Further, as per instructions of the Department of Personnel and Finance Department, resultant vacancies caused in lending Department due to secondment/deputation cannot be filled up by any mode of recruitment even on officiating basis. As a result of this, Department cannot fill up posts in Polytechnics, which was adversely affecting the study and training of the students. Thus, there is no justification to keep two faculties of each subject in Jawahar Lal Government Engineering College Sundernagar and the decision taken to cancel secondment of HODs (Applied Sciences & Humanities) is fair, legal, justified and on administrative exigencies of services.

5. Further, as per provision contained in Column No. 10, of the R&P Rules for the post of Assistant Professor (Applied Sciences & Humanities) notified on 31.03.2014, the mode of recruitment is 100% by direct recruitment on contract basis and the provision of recruitment by deputation/secondment is not applicable. Hence, absorption of incumbents taken on secondment basis is not feasible.

6. I have gone through the entire record and have found that applicant alongwith other incumbents was deployed in the year 2006 to start first newly established Government Engineering College, Sundernagar and further promoted as HOD(Applied Sciences & Humanities) in December, 2013. After promotion, the services of applicant alongwith two other HODs were taken on secondment basis for a period of 3 years vide notification dated 03.01.2014. The case of applicant alongwith other incumbents for permanent absorption stands examined earlier and rejected due to non applicability of provision of recruitment by deputation or secondment. After recruitment/appointment of faculty through

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Himachal Pradesh Public Service Commission, there is sufficient faculty in Engineering College Sundernagar now and there is no requirement of services of applicant and other incumbents taken on secondment/deployment. Further, there is no justification to keep 02 faculties of same subject in one institution and keep the other vacant. The contention of the applicant, who belongs to Polytechnic Cadre, seems to retain himself at Sundernagar forcibly, politically or through any other means. He remained posted at Sundernagar for a period of 11 years, since the year 2006. During the year 2013, he had also made an effort to take over his services in Engineering College on secondment basis by filing Civil Writ Petition No. 2204 of 2013-A-titled as Prakash Chand Chopra & anr. Vs. State of HP & others, which was later on withdrawn by him. The applicant is well qualified and aware of the fact that he belongs to Polytechnic cadre and is bound to provide his services in his original cadre. The applicant cannot be allowed to work in Engineering College, where presently sufficient faculty is available and future of hundreds of students of Polytechnics cannot be allowed to be ruined for the sake of any personal problem of any teaching faculty. Presently thousands of students are pursuing their studies far away from home staying in hostels, PGs or hiring private accommodations. The Government cannot adjust every employee according to his choice. Every employee has family and on the basis of family problem, every employee will show his inability to serve in distant located stations. This may lead to a situation, which will result into non-availability of faculty/staff in far away situated institutions and crowding of staff in nearby institutions, which is not desirable situation, in the welfare State, in the larger public interest.

7. The place where the applicant has been posted after cancellation of secondment is not situated in remote/tribal area and is well facilitated with good educational institutions and connected with National Highway No. 72, as such he can manage well for study of his son, if so required. It is the prerogative of the Government to post/transfer any Government employee to any institution of the Department on account of exigencies of services. There is only 01 trade of Civil Engineering running in Government Polytechnic Udaipur (Lahaul Spiti) and workload is less. On the other hand there are 02 trades viz Mechanical Engineering and Computer Engineering in Government Polytechnic Paonta Sahib and workload is much more. There is acute shortage of teaching faculty in

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Government Polytechnic Paonta Sahib, District Sirmaur and services of applicant are essentially required there.

Now therefore, undersigned after careful consideration of the facts and circumstances of the case, is of the considered view that the request of Dr. Prakash Chand Chopra, HOD(Applied Sciences & Humanities) to retain him at Jawahar Lal Nehru Government Engineering College Sundernagar or adjust him at Government Polytechnic Udaipur, Lahaul Spiti 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 Director-cum-Principal, Jawahar Lal Nehru Government Engineering College, Sundernagar, District Mandi.

Place: Shimla-2

Dated: 24th April, 2017


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

Registered Letter
Dr. Prakash Chand Chopra,
HOD(Applied Sciences & Humanities)
J.N. Government Engineering College,
Sundernagar, Distt Mandi (HP).

Endst. No. EDN(TE)E(1)17/2017 Dated: Shimla-2, the th April, 2017

Copy for information & necessary action is forwarded to:-

1. The Ld. Deputy Advocate General, Himachal Pradesh, Shimla-171002 in compliance to orders passed on 20.04.2017 in O.A.(M) No.117/2017.
2. The Director, Technical Education, Vocational & Industrial Training, HP, Sundernagar, District Mandi (HP) PIN-174401.
3. The Director-cum- Principal, Jawahar Lal Nehru Govt. Engineering College, Sundernagar, District Mandi (HP).
4. The Principal, Government Polytechnic Paonta Sahib, District Sirmaur (HP).
5. Guard file.


(Madan Lal Sharma)
Under Secretary (TE) to the
Govt. of Himachal Pradesh.
Phone-0177-2622407