

Government of Himachal Pradesh
Technical Education Department

No. EDN(TE)E(1)6/2018 Dated: Shimla-2, the 3rd April, 2018

ORDER

In the matter of :-
In O.A. No. 850/2018

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 09.03.2018 in O.A. No. 850/2018 had directed that the original application is disposed of with a direction that the applicant may file a comprehensive representation alongwith a certified copy of this order for cancellation of his transfer or suitable adjustment to 1st respondent through the Principal Secretary (Technical Education) to the Govt. of H.P., within a week. 1st respondent shall decide the same after affording an opportunity of being heard to the applicant as well as private respondent No. 2, if so desired, by 2nd April, 2018. Till decision of the representation, notification dated 07.03.2018, Annexure-1 shall stand stayed. Pending miscellaneous application(s), if any, also stands disposed of.

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

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.

5. The applicant further sought interim relief that during the pendency of the present Original Application stay the impugned order dated 17.03.2018 during the pendency of the Original Application.

6. That the Hon'ble Himachal Pradesh Administrative Tribunal vide order dated 09.03.2018 has disposed of the Original

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Application with a direction that the applicant may file a comprehensive representation alongwith a certified copy of this order for cancellation of his transfer or suitable adjustment to 1st respondent through the Principal Secretary (Technical Education) to the Govt. of H.P., within a week. 1st respondent shall decide the same after affording an opportunity of being heard to the applicant as well as private respondent No. 2, if so desired, by 2nd April, 2018. Till decision of the representation, notification dated 07.03.2018, Annexure-1 shall stand stayed. Pending miscellaneous application(s), if any, also stands disposed of."

7. I have gone through the entire record and have found that Shri Raj Kumar, Senior Lecturer (Applied Sciences & Humanities) was serving at Government Polytechnic Hamirpur w.e.f. 09.05.2014 and completed 3 years 9 months 26 days. After receiving the proposal of transfer, the matter was examined and matter was placed before the Hon'ble Chief Minister. At present there is ban on transfers and the Hon'ble Chief Minister is competent to approve transfers in relaxation of ban on transfers. The Hon'ble Chief Minister has approved the transfer proposal of Smt. Vibha Sharma, Senior Lecturer (Applied Science & Humanities) in condonation of short stay and in relaxation of ban on transfers from Government Polytechnic Talwar, District Kangra to Government Polytechnic Hamirpur vice Shri Raj Kumar, Senior Lecturer (Applied Science & Humanities) and vice-versa on departmental file. The notification to this effect was issued on 07.03.2018 and accordingly Smt. Vibha Sharma, Senior Lecturer (Applied Science & Humanities) was relieved from Govt. Polytechnic Talwar, District Kangra on 08.03.2018 (FN) and she joined at Government Polytechnic Hamirpur on 08.03.2018 (AN). Due to stay imposed by the Hon'ble Himachal Pradesh Administrative Tribunal vide order passed on 09.03.2018 in present O.A., now there are 02 Senior Lecturers (Applied Sciences & Humanities) working at Government Polytechnic Hamirpur against 01 sanctioned post and on the other hand there is no Senior Lecturer (Applied Science & Humanities) at Govt. Polytechnic Talwar. This position is not administratively desirable. The applicant has been transferred after completion of 3 years 9 months 26 days stay at Hamirpur, which is

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in consonance with transfer policy. Further the place where the applicant has been transferred is having same climatic conditions and is not situated in remote/tribal area and is well facilitated with better means of transportation and road connectivity and is just about 36 KM from his present place of posting. No Polytechnic is situated in the native place of the applicant, where he could be posted. However, he was serving nearest Polytechnic of the Department for the last 3 years 9 months 26 days and after completion of prescribed stay of 03 years he has been transferred. Every employee of the Department cannot be accommodated for posting at the choice of his/her own and every employee is supposed to serve anywhere in the State, where the institutes of the Department are situated. Every Government employee is bound to comply the orders of the Government and the act of applicant disobeying the orders of Government is violation of service Rules. 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: 3rd April, 2018


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(Sanjay Gupta)

Principal Secretary (TE) to the
Government of Himachal Pradesh

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

Endst. No. EDN(TE)E(1)6/2018 Dated: Shimla-2, the ^{3rd} April, 2018
Copy for information & necessary action is forwarded to:-

1. The Advocate General, Himachal Pradesh, Shimla-171002 in compliance to orders passed on 09.03.2018 in O.A. No. 850/2018.
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