

**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.**

CWP No. 3927/2010
Reserved on: 22.7.2011
Decided on:29.7. 2011

Moti Lal.	...Petitioner.
Versus	
H.P.S.E.B. and others.	...Respondents.

Coram:

Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?¹ No

For the petitioner : Mr. Dalip K. Sharma, Advocate.

For the Respondents: Ms. Anjula Khajuria, Advocate.

Justice Rajiv Sharma, Judge.

Petitioner was transferred from Electrical Sub Division, Pooh to Electrical Sub Division, Reckong Peo as Assistant Engineer on 30.4.2011. He joined his duties on 6.5.2011. Now, the petitioner has been transferred on 23.5.2011 (Annexure P-2) from Electrical Sub Division, Reckong Peo to office of the Resident Engineer, Giri Power House Division, Giri Nagar.

¹ Whether reporters of the local papers may be allowed to see the judgment? No

2. Mr. Dalip K. Sharma has strenuously argued that the petitioner has been permitted to join his duties pursuant to Annexure P-1 on 6.5.2011. He then contended that the petitioner was required to be permitted to complete normal tenure of three years as per transfer policy framed by the respondent-Board vide Annexure RA-III dated 29.9.2008.

3. Ms. Anjula Khajuria has argued that the transfer of the petitioner has been ordered in public interest.

4. I have heard the learned Counsel for the parties and have perused the pleadings meticulously.

5. Petitioner was transferred from Electrical Sub Division, Pooh, as noticed above, to Electrical Sub Division, Reckong Peo on 30.4.2011. He had been permitted to join his duties on 6.5.2011. He has been transferred within a period of 18 days from Electrical Sub Division, Reckong Peo to the office of Resident Engineer, Giri Power House Division, Giri Nagar on 23.5.2011. It is evident from the guidelines framed by the respondent-Board on 29.9.2008 that normally an incumbent should be permitted to discharge his duties for a period of three years. Though it is reflected in the reply that the transfer of the petitioner has been

effected from Electrical Sub Division, Reckong Peo in the public interest, however, the public interest has not been spelt out by the respondent-Board in the reply. It is true that that even as per the transfer policy, incumbent can be transferred before permitting him to complete three years normal tenure but on administrative grounds. These grounds are required to be reflected either from the record or from the reply filed by the respondent-Board.

6. Ms. Anjula Khajuria has also argued that the petitioner has remained posted in and around Reckong Peo. This could not be the ground to transfer the petitioner. Respondent-Board always knew that the petitioner remained posted at Reckong Peo when he was transferred from Electrical Sub Division, Pooh to Electrical Sub Division, Reckong and thereafter permitted to join his duties on 6.5.2011. The transfer policy is required to be followed uniformly. There cannot be any pick and choose. The respondent-Board is bound to implement the transfer policy in a just, fair and transparent manner taking into consideration the mandate of Articles 14 and 16 of the Constitution of India.

7. Accordingly, in view of the observations and discussions made hereinabove, the petition is allowed. Annexure P-2 dated 23.5.2011 is quashed and set aside. The respondent-Board is directed to permit the petitioner to complete his normal tenure at the present place of posting. No costs.

**(Justice Rajiv Sharma),
Judge.**

29.7.2011

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