

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 4261 of 2020

Decided on : 31.12.2020

Dheeraj Kumar

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the petitioner : **Ms. Kiran Dhiman, Advocate.**

For the respondent : **Mr. J.S. Guleria and Mr. Vikrant Chandel, Dy. A.G., for the respondent-State.**

Mr. R.K. Gautam, Senior Advocate with Ms. Megha Kapur Gautam, Advocate, for respondent No. 3.

(through video conferencing)

Sureshwar Thakur, Judge (oral)

Though a challenge is cast to the impugned transfer order, borne in Annexure P-1, and, the afore challenge is grooved in its emanating, without any approval being granted by the higher executive authority, in the State of H.P. However, without considering or evaluating the vigor, of, the afore submission, this Court, in view of the reply furnished, on affidavit, by the respondents No. 1 to 3, to the writ petition, and its making, a, disclosure that the writ petitioner, has completed the prescribed

tenure, of, three years, at the station concerned, and, also when the respondent No. 3, as submitted by the learned counsel appearing for the respondent No. 3, has completed his prescribed tenure, of, three years, at the station concerned, (i) thereupon, with both the aforesaid, not holding any vested or indefeasible right to seek their further continuation, at the station(s) concerned, (ii) rather with the respondent/employer, holding, a, right to transfer them from the station(s) concerned, (iii) thereupon, this Court, does not, deem it fit, to fatter the discretion, of, the respondent concerned, to post them at the station(s), other than the one(s), mentioned in the impugned Annexures.

2. The cumulative effect thereof, is, hence this Court refrains from making any interference with the impugned order, and, reserves the discretion to the authority concerned, to post the afore petitioner, and, respondent No. 3, at those station(s), as it deems fit. However, as submitted by the learned counsel for the petitioner, that since the infant daughter of the latter, is, suffering from a critical ailment, and, for purveying the fittest medical aid, to her, he is required to be posted at a place, where suitable medical facilities are available, thereupon, the respondents, while making an order, of, transfer order vis-à-vis, both the writ petitioner, and, the respondent No. 3, shall bear in mind the afore facet. Furthermore, as submitted by the learned counsel appearing for respondent No. 3, that the latter is on family way,

and also, she has to take care of her aged father-in-law, thereupon the afore facet be also borne in mind, while making the transfer order, upon her.

3. In view of this, the writ petition is disposed of. Consequently, the impugned transfer order, is, affirmed. Also, the pending application(s), are also disposed of.

(Sureshwar Thakur)
Judge

(Sandeep Sharma)
Judge

December 31, 2020
Kalpana