

REPORTABLE/NON-REPORTABLE
IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 28th DAY OF JANUARY, 2022

BEFORE

HON'BLE MR. JUSTICE SATYEN VAIDYA.

CIVIL WRIT PETITION No. 521 OF 2022

Between:-

**SANDEEP SINGH S/O SH. GAJINDER SINGH,
R/O VILLAGE KANDI, P.O. BHALEI,
TEHSIL SALOONI, DISTRICT CHAMBA,
PRESENTLY WORKING AS JBT IN GOVT.
PRIMARY SCHOOL, PANTAH, EDUCATION
BLOCK, SUNDLA, DISTRICT CHAMBA, H.P.
...PETITIONER**

**(BY SH. ARUN RAJ & SH. TANUJ THAKUR,
ADVOCATES)**

AND

- 1. STATE OF HIMACHAL PRADESH, THROUGH
PRINCIPAL SECRETARY (EDUCATION)
TO THE GOVT. OF HIMACHAL PRADESH,
SHIMLA- 171 002.**
- 2. DIRECTOR OF ELEMENTARY EDUCATION,
HIMACHAL PRADESH, SHIMLA – 171 001.**
- 3. DEPUTY DIRECTOR, ELEMENTARY EDUCATION,
CHAMBA, DISTRICT CHAMBA, H.P.**
- 4. NARESH KUMAR, PARENTAGE AND ADDRESS
NOT KNOWN TO THE PETITIONER, PRESENTLY
WORKING AS JBT, GOVT. PRIMARY SCHOOL,
LADWAH, EDUCATION BLOCK SUNDLA,
DISTRICT CHAMBA, H.P.**

.... RESPONDENTS.

(SH. RAJINDER DOGRA, SENIOR ADDITIONAL ADVOCATE GENERAL, SH. DINESH THAKUR, ADDL. ADVOCATE GENERAL AND SH. MANOJ BAGGA, ASSTT. ADVOCATE GENERAL, FOR RESPONDENTS NO. 1 TO 3).

NONE FOR RESPONDENT NO.4.

This petition coming on for orders this day, the Court passed the following:

ORDER

Aggrieved by the order of transfer, the petitioner has filed the instant petition for the grant of following substantive relief:

- (i) *That the impugned office order dated 17.01.2022 at Annexure P-1 qua the petitioner, whereby the petitioner has been ordered to be transferred from GPS Pantah, Education Block, Sundla to GPS Ladwah, District Chamba may kindly be quashed and set-aside and the petitioner may kindly be allowed to serve at present place of posting*

OR

In the alternative, the petitioner or respondent No.4 may kindly be adjusted/ transferred in GPS Tikker u/c GCPS Athed or GPS Prangal u/c GCPS

Bhalei, Education Block, Sundla, District Chamba, H.P. against vacant post in the interest of justice.”

2. In compliance to order dated 20.01.2022, the respondent-State has produced the entire record revealing the background in which the impugned transfer has been effected. Indisputably, the transfer of the petitioner has been effected on the recommendation made by an authority, which has nothing to do with the administration or the administrative department to which the petitioner belongs. As such, the transfer is clearly not sustainable in view of the judgment rendered by a Division Bench of this Court in **CWP No. 2862 of 2021**, titled **Vipender Kalta vs. State of H.P. and others**, decided on 20.07.2021.

3. Consequently, the impugned order of transfer dated 17.01.2022, as contained in Annexure P-1, is ordered to be quashed and set-aside.

4. It has been stated that the petitioner has completed the normal tenure of service at the present

place of posting, therefore, this order shall not come in the way of the official respondents in case they want to transfer the petitioner, however, such transfer shall be strictly in accordance with the Comprehensive Guiding Principles, 2013.

5. The instant petition is accordingly disposed of in the aforesaid terms, so also the pending miscellaneous application(s), if any.

28th January, 2022
(GR)

(Satyen Vaidya)
Vacation Judge