

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6799 of 2025

Date of Decision:25.04.2025

Susheel		Petitioner
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Versus

State of Himachal Pradesh & others		... Respondents
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Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner:	Mr. Mukul Sood, Advocate.
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For the Respondents:	Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C.Verma, Additional Advocate Generals and Mr. Ravi Chauhan, Deputy Advocate General, for the respondent/Stat
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Sandeep Sharma, Judge(oral):

Petitioner herein, who at present is working as Shastri at Government Girl Senior Secondary School, Rampur, District Shimla, Himachal Pradesh, is aggrieved of order dated 22.04.2025 (Annexure P-4), whereby he has been ordered to be transferred from afore station to Government Senior Secondary School, Sarpara, District Shimla, Himachal Pradesh i.e .hard area.

2. Precisely, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Mukul Sood, learned counsel representing the petitioner, is that petitioner, who is visually impaired, has been transferred in violation of transfer policy because he has not completed his normal tenure of posting at present

¹Whether the reporters of the local papers may be allowed to see the judgment?

placing of posting. While making this Court peruse pleadings as well as other documents adduced on record, Mr. Mukul Sood, learned counsel for the petitioner submits that on two occasions, private respondent as well as his wife managed their transfer using their political influence, as a result thereof, petitioner, who otherwise on account of his being visually impaired could not have been transferred to hard area, has been transferred to hard area. Learned counsel for the petitioner submits that though petitioner filed representation to the competent authority for cancellation of his transfer order, but since no action is being taken upon the same, this Court may pass appropriate orders.

3. Having regard to the nature of prayer made in the instant petition and order proposed to be passed, this Court sees no necessity to call for the reply on behalf of the respondents, who are otherwise represented by Mr. B.C.Verma learned Additional Advocate General. Learned Additional Advocate General states that though petitioner has not completed his normal tenure of posting at present place of posting, but if record of his previous posting is seen, he has been working in an around present place of posting for more than four years. He further submits that since petitioner herein has never served in hard area, no illegality can be said to have been committed by the respondents, while issuing impugned transfer order.

4. Having heard learned counsel for the parties and perused material available on record, this Court finds that petitioner has been working at present place of posting for last nine months, but if record of previous posting is seen, there appears to be merit in the contention of learned Additional Advocate General that petitioner has been working in an around present place of posting for the last four years. However, there is no dispute to the effect that petitioner is visually impaired and he belongs to Tehsil Theog, District Shimla, he otherwise could not have been transferred to hard area. Section 2(r) of Rights of Persons with Disabilities Act, 2016 clearly provides that person with 40% benchmark disability, be considered as disabled person. Since petitioner is having disability of more than 40%, he otherwise being disabled person could not have been transferred to hard/tribal area.

5. In the afore background, this Court without going into the merits of the case, deems it fit to dispose of the present petition with a direction to the respondents to consider and decide the pending representation 23.04.2025(Annexure P-6) of the petitioner expeditiously, preferably within a period of four weeks, in terms of transfer policy formulated by the Government of Himachal Pradesh as well as instructions issued from time to time with regard to posing of person with 40% disability. Ordered accordingly. Needless to say,

authority concerned, while doing the needful in terms of instant order, shall afford an opportunity of hearing to the petitioner and pass detailed speaking order thereupon, taking note of observations made hereinabove. Till the time, representation of the petitioner is not decided by the competent authority, impugned transfer order shall remain stayed qua the petitioner. Pending applications, if any, also stand disposed of

**(Sandeep Sharma),
Judge**

April 25, 2025
(shankar)