

Sewak Ram versus Executive Director (personnel), HPSEBL and another.

CWP No. 2516 of 2025

21.02.2025 Present: Mr. Sanjeev Kumar Motta, Advocate, for the petitioner.

Mr. Rahul Kumar vice counsel for Mr. Anil Thakur, Advocate, for the respondents.

CWP No. 2516 of 2025

Heard.

Notice. Mr. Rahul Kumar appears as vice counsel for Mr. Anil Thakur, Advocate, and waives service of notice on behalf of respondents No. 1 and 2. As prayed, let the reply be filed within three weeks.

CMP No. 2525 of 2025.

Heard.

Notice in aforesaid terms. Reply to application, if any, be filed within above period.

2. Petitioner has assailed the Impugned Order dated 6.2.2025 (Annexure P-1), transferring the petitioner as *Sr. Assistant* from O/o Chief Engineer (Gen.) HPSEBL, Sundernagar to O/o F & A Wing, HPSEBL, Shimla on the grounds that the transfer has been made after one year and ten months and without completing the normal tenure of three years; and transfer of petitioner by retaining incumbents having longer stay *at Sundernagar*

whereas, the petitioner has been singled out, is alleged to be unfair, unreasonable, arbitrary, discriminatory and not in spirit of Article 14 and 16 of the Constitution of India.

3. Per contra, Learned vice counsel appearing for Respondent-Board states that the Impugned Order dated 6.2.2025, (Annexure P-1), has been passed as petitioner was declared surplus, upon rationalization of posts and transfer has been necessitated as per the requirement of work on administrative grounds in exigencies of service.

4. This Court is conscious of the fact that in normal circumstances, the transfer of an employee, upon rationalization on administrative grounds and in exigencies of service is not to be interfered with by the Court. However, Court can show indulgence, in case, the transfer upon rationalisation has been ordered without there being any guidelines for transfer or in case the guidelines governing transfer on rationalization has been applied in an unfair, unreasonable, discriminatory and whimsical manner by resorting to pick and choose method as in the instant case.

5. Material on record reveals that the Impugned Order dated 6.2.2025 (Annexure P-1), transferring the petitioner upon rationalization of posts on administrative grounds, in exigencies of service cannot be permitted to be resorted to while retaining the incumbents having longer stay at the same place, as averred in Para 3 of the writ petition. The object and intent of rationalization is that the incumbents with longer stay, who are not covered by any concession admissible to employees of Respondent Board are to be shifted vis-à-vis junior incumbents [alike petitioner] unless the rationalization guidelines otherwise provide. No such provision has been pointed out by Learned Vice Counsel for Board permitting transfer irrespective of incumbents with longer stay. Averments made in Para No.3 of the writ petition alleging pick and choose method while resorting to transfer upon rationalisation carves out a prima facie case for grant of interim protection, to the petitioner, so as to balance the rights and equities of parties herein, at this stage.

6. Accordingly, the operation of Impugned Order dated 6.2.2025 (Annexure P-1) transferring the petitioner as *Sr. Assistant* from O/o Chief Engineer (Gen.) HPSEBL, Sundernagar to O/o F & A Wing,

HPSEBL, Shimla shall remain stayed, qua the petitioner, till the next date of hearing.

List the matter, before appropriate Bench, on 18.3.2025.

21st February, 2025
TM

(Ranjan Sharma)
Vacation Judge