

GOVERNMENT OF HIMACHAL PRADESH
IRRIGATION & PUBLIC HEALTH DEPARTMENT

No.IPH(A)2(B)5-24/2016 Dated: Shimla-171002, the 17/10/2018

ORDER

WHEREAS Shri Ravinder Kumar, Assistant Engineer IPH Circle, Bilaspur was transferred to IPH Sub Division, Bharari (under IPH Division, Ghumarwin) vice Shri Bihari Lal Dogra, Assistant Engineer and vice-versa vide this Department's notification No.IPH(A)2(B)6-7/2018 dated 26th September, 2018.

WHEREAS in compliance to the above Notification, Shri Ravinder Kumar, Assistant Engineer joined his duties at IPH Sub Division, Bharari on 27.9.2018 but against the above orders, Shri Bihari Lal Dogra, Assistant Engineer filed an O.A. No. 5927/2018 titled Bihri Lal Dogra vs State of H.P & others in the Hon'ble Administrative Tribunal.

WHEREAS the Hon'ble Administrative Tribunal vide its order dated 28.09.2018 passed the following orders in OA No. 5927/2018:-

" In the facts and circumstances, filing of replies on behalf of respondents No.1 and 2 and issuance of notice to private respondent No.3 are dispensed with. With the consent of the appearing parties, the original application is taken up for disposal at this early stage.

In the facts and circumstances and interest of justice, the original application is disposed of with the stipulation that subject to the applicant making a detailed representation, supported by documents, alongwith certified copy of this order, taking all the grounds as set up in the original application with a request for cancellation of the transfer in the first instance or suitable adjustment, to respondent No.1, through the Secretary(IPH) to the Government of Himachal Pradesh, within a week from today, who shall consider and decide the same in accordance with law, sympathetically, and the transfer policy framed by the State Government, by 31st October, 2018, after affording the opportunity of being heard to the applicant as well private respondent No.3.

However, in the meanwhile, in case has not already been relieved as on 27.09.2018 (the date of institution of the original application), further action in that regard shall be deferred till decision of the representation."

WHEREAS in compliance to the above directions of Hon'ble Administrative, the applicant tendered his representation on dated nil (received on 6.10.2018) wherein the applicant has requested that he has not been allowed to complete his normal tenure at Bharari and also his wife is working as ANM in the Ayurvedic Hospital, Kandror and therefore, his transfer orders dated 26.9.2018 may kindly be cancelled on couple case basis. Apart from this, the applicant alleged that IPH Sub Division, Bharari is the Home Sub Division of Shri Ravinder Kumar, Assistant Engineer and as per the transfer policy of the State Government, Assistant Engineers cannot be posted in their Home Sub Divisions.

WHEREAS in pursuance to the orders of the Hon'ble Administrative Tribunal, the applicant as well as the private respondent were afforded the opportunity of being heard on 16.10.2018. During the course of personal hearing, both of the officers have requested to allow them to continue at IPH Sub Division, Bharari.

WHEREAS the entire record of the case was gone through in detail. As per record, IPH Sub Division, Bharari is the Home Sub Division of Shri Ravinder Kumar, Assistant Engineer. The transfer policy of the State Government prohibits the posting of an Assistant Engineer in his Home Sub Division. However one can be posted in his Home Sub Division in relaxation of the above policy with the prior approval by the Hon'ble Chief Minister. In the present case, the Hon'ble Chief Minister had approved to transfer Shri Ravinder Kumar, Assistant Engineer at IPH Sub Division, Bharari in relaxation of Home Sub Division condition. Further on perusal of service particulars, the applicant mostly remained posted under IPH Division, Ghumarwin and distance between Ghumarwin and his transferred station i.e. Bilaspur is only 25 Kms. The applicant as well as the private respondent is holding Class-I Gazetted post. They can be posted anywhere in the State in the exigencies of public services and as per the prevailing transfer policy of the State Government, condition of stay is not applicable in the case of Class-I Gazetted officer. Hence, there seems no merit in the representation of the applicant.

