

No. Per (AP-B) B (7)-1/2010-Loose-II  
Government of Himachal Pradesh  
Department of Personnel (AP-II)

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From

Principal Secretary (Personnel) to the  
Government of Himachal Pradesh

To

1. All the Administrative Secretary to the Government of Himachal Pradesh
2. All the Head of Departments in Himachal Pradesh
3. All the Divisional Commissioner in Himachal Pradesh
4. All the Deputy Commissioner in Himachal Pradesh

Dated: Shimla-171002, the 24<sup>th</sup> April, 2015

Subject: -

Guidinglines in transfer policy-Orders of Hon'ble HPAT in  
OA No. 21/2015-5.

Sir,

I am directed to invite your attention on the observations of Hon'ble High Court of Himachal Pradesh in C.M.P. 4114 of 2010, C.W.P. 2843/2010 and C.M.P. No. 4112/2010 titled as Leena Sharma V/s State of H.P. & others conveyed vide this department's letter No. Per (AP-B) F (10)-1/99-Loose dated 15<sup>th</sup> June, 2010 vide which it has been emphasized that the *incumbent transferred to a station, shall not be permitted to occupy the transferred post without duly relieving the person already occupying the post & if the Controlling Officer does not comply with this procedure, the salary of one of the incumbents will be drawn from the salary of the Controlling Officer.*

2. The Hon'ble Himachal Pradesh Administrative Tribunal in O.A. No. 21/2015-5 titled Ramesh Chand Vs State of HP on 10<sup>th</sup> May, 2015 has observed that the practice for accepting the joining report without relieving the person already occupying the post result in un-necessary complications and directed that this practice should be scrupulously avoided in future (Copy enclosed).

P.T.O.

3. It is, therefore, once again requested that the observations of Hon'ble HPAT and instructions dated 15<sup>th</sup> June, 2010 may please be brought to the notice of all concerned for strict compliance.

Please also acknowledge the receipt.

Yours faithfully,



(Prem Singh Thakur)  
Jt. Secretary (Personnel) to the  
Government of Himachal Pradesh  
☎ 0177- 2624183

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However, in the meanwhile, if the applicant has not already been relieved, as on today, further action in that regard shall be deferred till the next date of hearing.

Copy Dasti

Sd/-  
(Justice V. K.Sharma),Retd.  
Chairman."

By moving the aforesaid Misc. Application respondent No.3 has brought to the notice of this court that he had already joined as Associate Professor( Physical Education) in govt. College, Sanjauli, Shimla on 25.2.2015. To this effect the learned counsel for private respondent No.3 has filed photocopy of a communication addressed by the Principal, Govt. College, Sanjauli to the Director Higher Education, Himachal Pradesh which is taken on record. In such circumstances, the aforesaid interim order dated 2.3.2015 is virtually of no avail to the applicant. However, keeping in view his grievances that he has been transferred out from Shimla to Seema on the basis of a D.O. note and that his daughter is suffering from asthma who requires constant attention, care and medical treatment, it shall be expedient and in the interest of justice to dispose of the original application with liberty reserved to him to submit a detailed representation supported by documents highlighting the aforesaid grievances and with a prayer for adjustment at a station nearby Shimla to respondent No.1 within one week from today, who shall consider and decide the same by 30<sup>th</sup> March,2015 after



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Secretary (Office)

Himachal Pradesh Administrative Tribunal

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affording him an opportunity of being heard. However, in the meanwhile, the applicant may not be compelled to join at the transferred station. Interim order dated 2.3.2015 shall stand vacated.

It goes without saying that transfer of private respondent No.3 from Govt. College, Seema to Govt. College, Sanjauli shall stand.

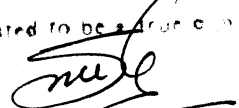
While parting this tribunal cannot help but observe that the manner in which the Principal of the concerned college has permitted private respondent No.3 to join in place of the applicant without relieving him leaves much to be desired. Such acts result in un-necessary complications and should be scrupulously avoided in future. Let a copy of this order be sent to the Chief Secretary, Himachal Pradesh for issuance of appropriate instructions to all the Administrative Heads of Departments in the State.

The Original application is disposed of in the above terms.

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(Justice V. K. Sharma), Retd.  
Chairman.

10<sup>th</sup> March, 2015  
Rita.

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Section Officer,  
H. P. Administrative Tribunal