

**Government of Himachal Pradesh  
Public Works Department**

No. PBW-AB (1)-80/2016

Dated, Shimla-2, the 22-04-16

**ORDER**

Whereas Sh.H.K.Gupta, Executive Engineer, HPPWD Division Karsog was transferred from Karsog vide this Department notification bearing No.PBW-AB(6)-1/2015 dated 15.3.2016. He was ordered to be posted as Executive Engineer, RDD, Shimla.

Whereas against his transfer from Karsog, Sh.H.K.Gupta filed OA No.1030/2016 in the Hon'ble HP Administrative Tribunal. The Hon'ble Tribunal vide its order dated 23.3.2016 disposed of the said OA with the following directions:-

“In the facts and circumstances and interest of the 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, highlighting the above aspects and with a request for cancellation of the transfer in the first instance or suitable adjustment against an existing/ likely vacancy out of at least five such vacancies to be indicated in the representation to respondent No.1 through the Additional Chief Secretary (PW) 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 30<sup>th</sup> April,2016 after affording an opportunity of being heard to the applicant as well as private respondent No.3, if so desired.

In the meanwhile, in case the applicant has not already been relieved as on 22.3.2016, further action in that regard shall be deferred till decision of the representation.”

Whereas in pursuant to the Hon'ble Tribunal direction contained in order dated 23.3.2016, Sh.H.K.Gupta submitted his representation dated 30.3.2016. In his representation, he has requested for cancellation of his transfer on the grounds that in the last 5 years he has been transferred without completing the prescribed tenure, his retirement on 31.10.2017, he is likely to be promoted as SE in the next few months and his wife Smt. Promila Gupta is working as a Lecturer in GSSS Churag since July,2015. Further, he has submitted five station of his choice (Solan, Nalagarh,

Kasauli and Arki) which are not his home division and where he seeks his adjustment.

Whereas as per direction of the Hon'ble Tribunal, Sh.H.K.Gupta was given personal hearing on 21.3.2016 when he requested for either cancellation of his transfer or to adjust him at the places of his choice he has given in his representation dated 30.3.2016.

Whereas keeping in view the contents of his representation, and the submissions he made during his personal hearing, it has been found that para 10 of the Comprehensive Guiding Principles for regulating the transfer of the State Govt. Employee have been issued vide O.M. No. Per(AP-B)E(3)-17/12 dated 10.7.2013 provides that :-

“The Government can transfer any officer/official at any time irrespective of stay in view of administrative exigency in the public interest. However, normally the tenure/stay of an officer/official at one station shall be three years which not be applicable to the officers of IAS/HPAS/HPPS/HPFS other allied services and all Class-I and II officers.”

Being a class-I gazetted officer, the condition of short stay is not applicable in case of the applicant, as such, short stay cannot be said to be a genuine ground for cancellation of his transfer. Moreover, his transfer has been approved by the competent authority, who is otherwise competent to order transfer of any employee in condonation of short stay also.

Whereas it is also noticed that during the pendency of this OA, Sh.H.K.Gupta managed U.O.notes bearing No.Secy/CM-07053/2012-VIP-C-316101 dated 11.4.2016 and No.Secy/CM-07120/2012-VIP-C-321590 dated 30.3.2016 for his adjustment as Eexeutive Engineer, NH Division Solan, which station he has not mentioned in his representation. It has also been found that the applicant Sh.H.K.Gupta while managed his posting from Dharamashala to Arki and from Arki to M.C., Shimla and then from M.C.Shimla to Karsog, he never raised the issue of his short tenure and approached the Hon'ble Court/Tribunal against his transfers. Thus, it is clear that the applicant, Sh.H.K.Gupta is consciously avoiding his joining as EE, RDD Shimla and trying for his adjustment



somewhere else under the garb of Hon'ble Court direction and by bringing in political pressure without having any justifiable reasons.

And whereas the Hon'ble High Court has taken a view elsewhere that when officers themselves use UO notes/political influence to get their posting, then the officer cannot rely on short tenure as a guise for his transfer/adjustment.

Now, therefore, in view of the above facts and circumstances of the case, the undersigned comes to the conclusion that his representation dated 30.3.2016 has no merit, hence, the same is hereby rejected and he is ordered to join his duties as Executive Engineer, RDD, Shimla immediately.

By order

(Narinder Chauhan)  
**Addl. Chief Secretary (PW) to the  
Government of Himachal Pradesh**

Sh.H.K.Gupta, EE  
HPPWD Division Karsog  
Distt. Mandi, HP.

**Endst. No. As Above**

**Dated, Shimla-2, the 22-04-16**  
Copy for information and necessary action is forwarded to the  
Engineer-in-Chief, Nirman Bhawan, Shimla-2.

c/c

(K.R.Saizal)  
**Deputy Secretary (PW) to the  
Government of Himachal Pradesh**  
Phone No.2622498