
(2010) 02 AHC CK 0033
In the Allahabad High Court
Case No : C.M.W.P. No. 4389 of 2010

Dr. Virendra Kumar Sharma

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 08-02-2010

Acts Referred:

Citation : (2010) 125 FLR 490

Hon'ble Judges : Satya Poot Mehrotra, J;Kashi Nath Pandey, J

Bench : Division Bench

Advocate : S.K. Chaubey, for the Appellant; Pankaj Saxena, C.S.C., for the Respondent

Judgement

Satya Poot Mehrotra and Kashi Nath Pandey, JJ.—On oral prayer made by Sri S.K. Chaubey, learned Counsel for the petitioner, he is permitted to correct the description of the petitioner in the writ petition as well as in the stay application.

2. The present writ petition has been by the petitioner seeking the following reliefs:

1. issue a writ order, or direction in the nature of mandamus direction the respondent concerned to consider and decide the transfer application of the petitioner within specific period, so that justice may be done.

2. issue any suitable order or direction which this Hon''ble Court may deem fit and proper under the facts and circumstances of the case, so that justice may be done.

3. award the cost of the writ petition.

3. From the averments made in the writ petition, it appears that the petitioner, who has been working on the post of Reader in the department of Hindi in Ranjeet Singh Memorial Maha Vidyalaya, Dhampur, District Bijnor, prayed for his transfer from the said institution at Dhampur, District Binjor to Bareilly College, Bareilly under the single transfer policy of the State Government on the ground

of his family circumstances.

4. In view of the prayer of the petitioner, the Committee of Management of the aforesaid institution at Dhampur, District Bijnor passed a resolution on 6.5.2005 giving "No Objection" to the transfer of the petitioner. Copy of the said resolution has been filed as Annexure No. 2 to the writ petition.

5. It further appears that the Committee of Management of Bareilly College, Bareilly also issued "No Objection" to the transfer of the petitioner from; the aforesaid institution at Dhampur, District Bijnor to Bareilly College, Bareilly on 18/19.1.2007. Copy of the "No Objection" has been filed as Annexure No. 3 to, the writ petition.

6. In view of the "No Objection" given by the respective Committees of Management of both the institutions, the petitioner submitted his application on 14.1.2007 (Annexure No. 1 to the writ petition) praying for his transfer from the aforesaid institution at Dhampur, District Bijnor, to Bareilly College, Bareilly. 7. It is, inter alia, averred in the writ petition that despite the aforesaid formalities having been completed by the petitioner, the respondent Nos. 1 and 2 have not so far taken any decision in regard to the transfer of the petitioner as prayed for in the aforesaid application dated 24.1.2007.

8. By the order dated 29.1.2010, Sri Pankaj Saxena, learned Standing Counsel appearing for the respondent Nos. 1 and 2 was granted time to obtain Instructions in the matter. Sri Saxena submits that he has received instructions in the matter and as per his instructions, the aforesaid application of the petitioner praying for his transfer was forwarded by the Director, Higher Education, U.P., Allahabad (respondent No. 2) to the State Government (respondent No. 1) by the letter dated 21.1.2007, and the matter is pending before the State Government Respondent No. 1).

9. We have heard Sri S.K. Chaubey, learned Counsel for the petitioner and Sri Pankaj Saxena, learned Standing Counsel appearing for the respondent Nos. 1 and 2.

10. Having regard to the facts and circumstances of the case, as narrated above, and having considered the submissions made by the learned Counsel for the parties, we are of the opinion that the interest of justice would be subserved by disposing of the writ petition permitting the petitioner to make an application before the respondent No. 1 along with a certified copy of this order, and directing the respondent No. 1 to take appropriate decision in the matter of transfer of the petitioner in accordance with law within a specified period.

11. We accordingly dispose of the writ petition with the following directions:

1. Within a period of six weeks from today, the petitioner will make an application before the respondent No. 1 annexing thereto a certified copy of this order as well as copy of the aforesaid application submitted by the petitioner on 24.1.2007 and copies of the "No Objection" given by the respective Committee of

Management of the aforesaid two institutions.

2. The respondent No. 1 will take appropriate decision in regard to the prayer for transfer of the petitioner made in the aforesaid application dated 24.1.2007 in accordance with law expeditiously, preferably within a period of three months of the receipt of the aforesaid application along--with the documents as mentioned in the direction No. 1 given above. It is made clear that this Court has not adjudicated the claim of the petitioner on merits.