
(2019) 11 UK CK 0188

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2594 Of 2019

Geeta Kanaujia

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 26-11-2019

Acts Referred:

Uttarakhand Annual Transfer For Public Servants Act, 2017 — Section 23

Citation : (2019) 11 UK CK 0188

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : K.P. Upadhyay, Hemant Pant, Indu Sharma

Final Decision : Disposed Of

Judgement

Lok Pal Singh, J

1. By means of present writ petition, petitioner has sought a writ in the nature of certiorari for quashing of orders dated 25.06.2019 and 16.11.2019, contained as Annexure nos.1 and 2 to the writ petition.

2. Facts, in brief, are that the petitioner is a Head Mistress in a Government Primary School under the Elementary Education Department of the State of Uttarakhand. By order dated 25.06.2019, petitioner was transferred from Government Girls Primary School, Malli Mirai, Block Dwarahat (Almora) to Government Primary School Bhait Badshila, Block Takula, District Almora. However, as certain anomalies were pointed out by the aggrieved teachers in the transfer orders, transfer orders pertaining to the teachers who were interested to work in Durgam but have been transferred to Sugam as well as of the teachers who were only teacher working in the school but have been transferred without any arrangement, were stayed by the State Government vide order dated 09.08.2019. It is contended that the petitioner was the only teacher posted/working in her school at that time, her case was covered by the aforesaid order dated 09.08.2019. Thereafter, the Block Education Officer, vide his

communication dated 16.11.2019, sent on 18.11.2019 by whatsapp, has clarified that the petitioner will be relieved within a week to join at the transferred place of posting.

3. Learned Senior Counsel appearing for the petitioner would submit that the impugned transfer order is against the provisions of Uttarakhand Annual Transfer for Public Servants Act, 2017 (for short, the Act), which contemplates that the transfers must not be made after the deadline prescribed therefor. He would further submit that in the present case the deadline was upto 10.06.2019 which was extended upto 26.06.2019 but now at the belated stage by order dated 16.11.2019, petitioner has been transferred in the middle of the current academic session.

4. Learned Senior Counsel would further submit that the options submitted by the petitioner for her transfer have not been considered by the authority concerned despite having vacancies of Head Mistress at the said places. Learned Senior Counsel would further submit that order has been passed for relieving of the petitioner within a week in the middle of current academic session which will cause hardship to the petitioner as the petitioner is residing with her minor daughter who is studying in class 6th and the transferred place is about 40 kms. away from the present place of posting

5. Having considered the submission of learned counsel for the parties and upon perusal of entire material, this Court finds that the petitioner was transferred from Government Girls Primary School, Malli Mirai, Block Dwarahat (Almora) to Government Primary School Bhait Badshila, Block Takula, District Almora vide order dated 25.06.2019, however subsequently the same was stayed by the State Government, but now in the middle of academic session, order dated 25.06.2019 is being implemented by passing relieving order dated 16.11.2019. Impugned order of relieving appears to be in violation of Section 23 of the Act, which contemplates that the last date of issuing transfer orders by the competent authority is 10th June in each year and last date of relieving is seven days from the date of issue of transfer order. Although the transfer order has been passed on 25.06.2019 but the fact remains that now in the middle of academic session petitioner has been asked to join at the transferred place of posting, which certainly would cause great hardship to the petitioner as well as will adversely affect the education of petitioner's school going daughter. In my considered view, while effecting any transfer order, the fact relating to the education of the particular employee should be given due weightage and the transfer should be avoided in the mid-session.

6. In the above peculiar facts and circumstances of the case, this writ petition is disposed of with a direction to the respondents to permit the petitioner to continue at the present place of posting till the end of academic year i.e. 31.03.2020. Till then, impugned order dated 25.06.2019 as well as relieving order dated 16.11.2019 shall be kept in abeyance.

7. No order as to costs.