
(2019) 09 UK CK 0059

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2123 Of 2019

Geetika

APPELLANT

Vs

State Of Uttarakhand & Anr

RESPONDENT

Date of Decision : 12-09-2019

Acts Referred:

Uttarakhand Annual Transfer For Public Servants Act, 2017 — Section 18(4), 18(5)

Citation : (2019) 09 UK CK 0059

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : T.P.S. Takuli, V.S. Rawat

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. Petitioner has approached this Court seeking the following reliefs:-

i) Issue a writ, order or direction in the nature of certiorari quashing the impugned transfer order no.C-1430/Sthanantaran-5236/2019-20 dated 07th of August, 2019 passed by respondent no.2 to the extent of petitioner's name is concerned, by which the petitioner has been transferred from Supervisor, Child Development Project, Laksar, Haridwar to Supervisor, Child Development Project, Tharali Chamoli on administrative ground, else the petitioner shall suffer irreparable loss and injury and the same cannot be compensated by any means.

2. Learned counsel for the petitioner would submit that the impugned order of transfer suffers from with mala fide as the same has been passed contrary to the provisions of the Uttarakhand Annual Transfer for Public Servants Act, 2017 (for short, the Act). Learned counsel for the petitioner would further submit that similar controversy arose before the Division Bench of this Court in WPSB No.401 of 2019, wherein the Division Bench, has quashed the transfer order on the ground of non-compliance of Section 18(4) and 18(5) of the Act. Relevant portion of the judgment dated 27.08.2019 is reproduced as under:-

"6. While the impugned order or transfer expressly states that the transfer is made on administrative grounds, it is evident that the requirement of the proviso to Section 18(4), of administrative grounds being mentioned in the order, has not been complied with. Since the impugned order only refers to "administrative grounds", and does not specify what those administrative grounds are, the impugned order, to the extent the petitioner herein is concerned, is quashed. Needless to state that this order shall not disable the respondents from effecting transfer afresh on administrative grounds after complying with the provisos to Section 18(4) & (5) of the 2017 Act, and in accordance with law.

7. The writ petition stands disposed of accordingly. No costs."

3. Having heard learned counsel for the parties and perused the material available on file as well as having gone through the judgment of Division Bench dated 27.08.2019, this Court finds that the issue involved in the present writ petition is identical to the one decided by the Division Bench in aforesaid case number. In the present case also, though the impugned transfer order has been passed under Section 18(5) of the Act stating that transfer is being effected on administrative grounds but it does not specify as to under which administrative ground, impugned order of transfer has been passed qua the petitioner. Impugned transfer order is hit by provisions of Section 18(4) and 18(5) of the Act and is therefore liable to be set aside.

4. In view of the above, writ petition is allowed. Impugned transfer order dated 07.08.2019 is hereby quashed qua the petitioner only. However, the respondents would be at liberty to pass a fresh transfer order in accordance with law.

5. No order as to costs.

6. Let a certified copy of this judgment be issued to learned counsel for the parties within 48 hours, as per rules.