
(2023) 12 UK CK 0086

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 2211 Of 2023

Ghanshyam

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 14-12-2023

Acts Referred:

Citation : (2023) 12 UK CK 0086

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : S.S. Yadav, Atul Bahuguna

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. By means of this writ petition, the petitioner has challenged the order dated 05.12.2023 passed by respondent no.3, whereby he was attached with immediate effect from Hemwanti Nandan Bahuguna Post Graduate College, Khatima, District Udham Singh Nagar to Government P.G. College, Thailisain, District Pauri Garhwal on administrative ground.

2. It is the case of the petitioner that he is posted as Lab Assistant (Chemistry) in the Hemwanti Nandan Bahuguna Post Graduate College, Khatima, District Udham Singh Nagar. When, the writ petition was filed as fresh, this Court vide order dated 12.12.2023 has directed learned State Counsel to seek instructions that under which condition he was attached to another college.

3. Today, learned State Counsel got the instructions in writing, which is taken on record. According to the said instructions, in the student union election 2023-24, petitioner has polluted the election process and got the reputation of the Government P.G. College down and at the same time, the conduct of the petitioner has been quite suspicious for the last so many years and a question mark was made by the Principal of the said college on his integrity, which is

against the Government Servant's Conduct Rules. For that reason, the petitioner was attached to Government P.G. College, Thailisain, District Pauri Garhwal on administrative ground.

4. Against this, learned counsel for the petitioner submitted that had it been the case against the petitioner, then no one has stopped the respondent to proceed departmentally by conducting disciplinary proceedings against the petitioner, in which he could have been placed under suspension during the pendency of such disciplinary proceeding.

5. According to the learned counsel for the petitioner, this cannot be a ground to just attach the petitioner to another college without there being any kind of preliminary inquiry against the petitioner and as such the attachment order is bad in law. He further submitted that even in a case where a person is transferred on administrative ground, a fact finding inquiry with the participation of the government servant is necessary, but here in the case in hand, no such action has been taken by the respondents against the petitioner and rather without any reason, simply mentioning on the "administrative ground", he has been attached.

6. This Court find force in the submissions made by learned counsel for the petitioner. If as per the instructions received, the conduct of the petitioner was against the Government Servant's Conduct Rules, instead of placing him under attachment, he should have been proceeded with in a departmental proceeding, where all option were available to the respondents to either to suspend him or to attach him somewhere else during the pendency of the inquiry.

7. In this view of the matter, in the opinion of this Court, this order suffers from arbitrariness and it is illegal and cannot sustain in the eyes of law. Accordingly, the writ petition is allowed and the impugned order dated 05.12.2023 (Annexure No.1 to this writ petition) is hereby quashed. However, the respondents are at a liberty to proceed against the petitioner in accordance with law in a disciplinary proceeding.

8. Pending application(s), if any, stands disposed of accordingly.