

(2011) 09 AHC CK 0221
In the Allahabad High Court
Case No : Service Single No. 3862 of 2004

Gyan Pratap Pandey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2011) 09 AHC CK 0221

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anil Kumar, J.—Matter is taken in revised cause list.

2. None present on behalf of the Petitioner.

3. Heard learned Standing counsel and perused the record.

4. By means of the present writ petition, Petitioner has challenged the impugned order of transfer dated 15.07.2004 (Annexure No. 1) passed by Respondent No. 2.

5. From the perusal of the record, it is not in dispute that the Petitioner is holding transferable post.

6. The law is well settled that transfer being exigency of service can be effected by the employer concerned in accordance with its administrative exigency, in the interest of administration and public interest at any point of time and that cannot be monitored and guided by this Court unless it may be shown that transfer order is vitiated on account of the contravention of the statute, or lacks jurisdiction or mala fide as such in view of the judgment passed by the Hon''ble Supreme Court in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others, wherein Hon''ble Supreme Court has held as under:

In our opinion, the courts should not interfere with a transfer order which is

made in public interest and for administrative reasons unless the transfer order are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other. He is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department.

7. The aforesaid view has been reiterated by Hon''ble Supreme Court in the case of Union of India and another Vs. N.P. Thomas, and N.K. Singh Vs. Union of India and others, holding therein if a person holding a transferable post, is transferred, there is no violation of any statutory/ mandatory rules then the same is not subject to judicial review.

8. Further, in the case of Chief General Manager (Telecom), N.E. Telecom Circle and another Vs. Rajendra Ch. Bhattacharjee and others, Hon''ble Supreme Court has held as under:

It is needless to emphasise that a government employee or any servant of a public undertaking has no legal right to insist for being posted at any particular place. It cannot be disputed that the Respondent holds a transferable post and unless specifically provided in his service conditions, he was no choice in the matter of posting. Since the Respondent has no legal or statutory right to claim his posting at Agartala, therefore, there was no justification for the Tribunal to set aside the Respondent's transfer to Dimpur.

9. In view of the above said facts, I do not find any merit in the writ petition. It is accordingly dismissed.

10. However it will not preclude the Petitioner from making appropriate representation explaining his personal problems to the concerned opposite party, if any, and if such a representation is made, the same may be considered by the said authority in accordance with law.

11. No order as to costs.