

(2024) 03 UK CK 0045

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 400 Of 2024

Harish Chandra Suyal & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 14-03-2024

Acts Referred:

Citation : (2024) 03 UK CK 0045

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : M.S. Bhandari, S.M.S. Mehta

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. By means of this writ petition, petitioners have challenged the impugned transfer order dated 27.02.2024, annexure-16 to the writ petition, whereby petitioners have been transferred from their present place of posting to different Districts.

2. Heard learned counsel for the parties.

3. It is submitted by learned counsel for the petitioners that the transfers of the petitioners have been effected due to the reason of upcoming parliamentary election under the guidelines issued by the Election Commission of India dated 21.12.2023, annexure-12 to the writ petition. He further submits that reliance placed by the respondents on the guidelines for transferring the petitioners are totally misplaced, as the guidelines do not cover the petitioners, as they are not district level officers as prescribed in Clause 5.1 of the notification of the Election Commission of India dated 21.12.2023. He also submits that petitioner nos.3 & 4 are of the age of 55 years and more, therefore, their transfer is against the provisions of Uttarakhand Annual Transfer for Public Servants Act, 2017. He further submits that representation of the petitioners is pending for consideration

with respondent no.2.

4. Per contra, learned State Counsel has drawn the attention of this Court at Clause 3 of the notification of Election Commission of India, wherein, it has also been prescribed that officer connected directly with elections shall not be allowed to continue in the present district (revenue district) of his posting; (i) if she/he is posted in her/his home district and (ii) if she/he has completed three years in that district during last four years or would be completing three years on or before 30.06.2024.

5. From bare perusal of the transfer order, it is reflected that the petitioners have been transferred as per the notification of Election Commission of India as all the petitioners have completed more than three years in their place of posting and they are posted in their home district which is not disputed by the petitioners.

6. Having heard the learned counsel for the parties and having gone through the notification of the Election Commission of India as well as the impugned transfer order, it is abundantly clear that the petitioners may not fall within the definition of District Level Officer, but Petitioners are presently posted as Assistant Block Development Officers and they are directly associated with the election work as they are deployed in the election duties. Moreover, as stated above, it is, at the risk of reiteration, clarified their stay at their present place of posting is more than three years and they do belong to the same district.

7. In this view of the matter, this Court does not find any infirmity in the impugned transfer order, which warrants any interference in that. Accordingly, the writ petition is dismissed in limine.