

(2019) 07 UK CK 0096

In the Uttarakhand High Court

Case No : Writ Petition No. 292 Of 2019 (S/B)

Jag Deepak Joshi

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 09-07-2019

Acts Referred:

Citation : (2019) 07 UK CK 0096

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : K.P. Upadhyay, Paresh Tripathi

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. K.P. Upadhyay, learned counsel for the petitioner and Mr. Paresh Tripathi, learned Chief Standing Counsel for the State of Uttarakhand/ respondents, and, with their consent, this writ petition is disposed of at the stage of admission.

2. The petitioner has questioned his transfer from the durgam area in Champawat to the sugam area in Haldwani in District Nainital. The petitioner is an Associate Professor of Commerce in the Government Degree College, Champawat. He is said to be the only Associate Professor-Commerce in the said College. He was transferred from Pithoragarh to Champawat, less than 09 months ago, on 13.09.2018. On the directions of the Government, calling upon all regular teachers to submit their transfer forms exercising their options for 10 places, the petitioner, who has been working in durgam areas for the past 13 years claims to have submitted his transfer form in the belief that, since he had only been transferred to Champawat less than 09 months ago, the requirement of filling up the transfer form was a mere formality; and he would not be transferred, for the next two years, since the minimum stipulated duration, in any particular place of posting, is 03 years.

3. It is the petitioner's case also that transferring him from Champawat would leave the post of Associate Professor, in the Government Degree College there, vacant; the Principal had also recommended his retention in Champawat since his services were required in the college thereat; the U.G.C. had also accorded approval for a research scholar, who was doing P.hd. under the guidance of the petitioner, to be shifted to Champawat from Pithoragarh; and this needless transfer would cause inconvenience not only to the petitioner, but to several others also, including students studying in the Government Degree College at Champawat.

4. We are in agreement with the submission of Mr. K.P. Upadhyay that transfer of the petitioner from a durgam area to a sugam area may result in the post of an Associate Professor in a Government College in hilly areas being kept vacant. We are also aware that a Division Bench of this Court had, in its order in Writ Petition (PIL) No. 164 of 2013 dated 18.06.2018, held such transfers to be impermissible. These are all matters for the competent authority, effecting transfers, to consider. Suffice it, therefore, to direct the competent authority, on receipt of a representation from the petitioner seeking his retention at Champawat, to consider his request in accordance with law, and in the light of the order of the Division Bench of this Court in Writ Petition (PIL) No. 164 of 2013 dated 18.06.2018.

5. Mr. K.P. Upadhyay, learned counsel for the petitioner, would submit that a representation would be submitted by the petitioner within three days from today. The competent authority shall consider the representation, in the light of the observations made hereinabove, and pass a reasoned order in accordance with law, and communicate the same to the petitioner with utmost expedition; and, in any event, not later than two weeks from the date of receipt of the representation of the petitioner.

6. The writ petition stands disposed of accordingly. No costs.

7. Let a certified copy of this order be issued to the learned counsel for the parties, on payment of prescribed charges, by 10.07.2019.