

(2003) 10 UK CK 0036

In the Uttarakhand High Court

Case No : Writ Petition No. 497 of 2003 (SB)

Jag Mohan Sharma, Deputy Range Officer

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 22-10-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 UPLBEC 87

Hon'ble Judges : Rajesh Tandon, J

Bench : Single Bench

Advocate : B.P. Nautiyal, for the Appellant; Standing Counsel, for the Respondent

Judgement

Rajesh Tandon, J.—The present writ petition has been filed praying for a writ order or direction in the nature of certiorari quashing the order dated 30.9.2003, Annexure-II to the writ petition.

2. Brief facts giving rise to the present writ petition are that petitioner is posted as Deputy Ranger and is officiating as Range Officer, Chillawali Range, Rajaji National Park, Dehradun with effect from 1.1.2003. The petitioner has claimed himself to be the senior most Deputy Ranger who was given charge of Chillawali Range, Rajaji National Park and according to him there has been arrangement that he will work as Range Officer Chillawali Range.

3. On 13.9.2003, the petitioner has received a letter from the Head Office of Rajaji National Park, Dehradun by which the petitioner was attached to the Head Office, Rajaji National Park, Dehradun on the administrative grounds. The petitioner has also pointed out G.O. dated 16.2.2000 Clause 2 of which is being quoted below :

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kjk ;g fu.kZ; fy;k x;k gS fd fjDr jgus okyh jsats dk dk;ZHkkj LFkkfu; :i ls ou
jsatjksa ds miyC/k u gksus ij ofj"V ,oa ;ksX; mi jsatjksa dks LFkk;h ,oa fu;fer

O;oLFkk gksus rd ns fn;k tk,A

4. So far as the order of attachment of the petitioner to the head quarter is concerned I find no illegality in this order. The petitioner was posted in Chillawala Range, District Dehradun and the Head Office of Rajaji National Park is also situated at Dehradun.

5. The Counsel for the petitioner has stated that in fact the order in question will amount to transferring the petitioner. In my opinion even if it is treated as a transfer to a particular place it requires no interference under Article 226 of the Constitution of India as it will only amount to shifting of the petitioner at the headquarter alone.

6. Even the transfer order passed in public interest requires no interference under Article 226 of the Constitution of India.

7. The Apex Court in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others, , it has held that the Government servant holding a transferable post has no vested right at one place or the other. It has been further held that the transfer orders issued by the Competent Authority do not violate any of his legal rights. The observations of the Apex Court are quoted below :

"In our opinion, the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders 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 the 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. If the Courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

8. The Apex Court has observed that the party should approach the higher authorities in the department.

9. Since the petitioner has a grievance that he could not have been shifted to the Head Office of Rajaji National Park, Dehradun without any opportunity of hearing or without any subsequent cause, suffice it to observe that liberty is given to the petitioner to place his representation before the Director, Rajaji National Park, Dehradun, who shall decide the same in view of the aforesaid observations.

10. Consequently, the writ petition is disposed of with a direction that the respondent shall decide the representation of the petitioner within a period of three weeks after the receipt of the certified copy of the order. The transfer order shall remain in abeyance for a period of six weeks only.

11. In the light of the aforesaid observations, the writ petition is disposed of finally. There will be no order as to costs.