
(2019) 01 UK CK 0015

In the Uttarakhand High Court

Case No : Writ Petition (S Of B) No. 23 Of 2019

Jagdish Prasad Bhatt

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 09-01-2019

Acts Referred:

Citation : (2019) 01 UK CK 0015

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Dushyant Mainali, Paresh Tripathi

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, CJ

1. Heard Shri Dushyant Mainali, learned counsel for the petitioner and Shri Paresh Tripathi, learned Chief Standing Counsel for the State. With their consent this petition is disposed of at the stage of admission.

2. By the impugned order, the petitioner has been repatriated back to the Department to which he belongs, that too in the very same city of Dehradun i.e. from the post of Assistant Accounts Officer in the Medical Education Directorate, Uttarakhand to the Department of Directorate of Development Audit, Dehradun. The petitioner was earlier transferred by proceedings dated 24.04.2015 to Pithoragrah, and that order was kept in abeyance. Shri Dushyant Mainali, learned counsel for the petitioner would submit that the petitioner is not aggrieved by his repatriation to the Department of Directorate of Development Audit, and he is aggrieved only by the fact that the earlier order of transfer dated 24.04.2015, which was kept in abeyance, has been amended by the impugned order dated 07.12.2018, providing for such repatriation; and as the earlier transfer order dated 24.04.2015 was stigmatic, the present transfer order, which results in revival of the earlier illegal order of transfer, should be set aside.

3. A perusal of the earlier order of transfer dated 24.04.2015 does not indicate any stigmatic observations having been made on the petitioner. The order does not even state that the transfer is because of the complaint made by the Minister.

4. The order dated 24.04.2015 merely states that the petitioner is being transferred on receipt of a complaint against him, and after detailed consideration by the Government. This transfer order cannot be construed as stigmatic. Shri Paresh Tripathi, learned Chief Standing Counsel would submit, not without justification, that the said order of transfer dated 24.04.2015 is not punitive in character; and a mere reference to the receipt of a complaint against the petitioner would not render such an order stigmatic.

5. In any event, the earlier order of transfer dated 24.04.2015 which had resulted in the petitioner being transferred to Pithoragarh has not been given effect to; the petitioner has now been repatriated back to his department at Dehradun; and he admits not to have any grievance there-against. The petitioner's repatriation to his parent department, that too in the very same city of Dehradun, would not attract the provision of the 2017 Act.

6. In so far as the petitioner's contention that an inquiry should be conducted, suffice it to observe that this order shall not disable him from making a representation to the concerned authority, and for them to take action in accordance with law.

7. Shri Paresh Tripathi, learned Chief Standing Counsel would submit that there is no material on record to show that earlier order dated 24.04.2015 was kept in abeyance. It is wholly unnecessary for us to examine this aspect as the petitioner has been repatriated under the impugned order, to his parent department, and the earlier order dated 24.04.2015, transferring him to Pithoragarh, would no longer survive.

8. The writ petition is, accordingly, disposed of.