
(2020) 07 UK CK 0012

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 143 Of 2020

Kishan Chand

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 07-07-2020

Acts Referred:

Citation : (2020) 07 UK CK 0012

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

Bench : Division Bench

Advocate : Tapan Singh, Pradeep Joshi, Aman Rab

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Admittedly, the petitioner has joined at the place of posting, albeit after filing the writ petition.

2. The primary submission, urged by Mr. Tapan Singh, learned Counsel for the petitioner, is that the order impugned in the writ petition was passed in

violation of the order passed by the Division Bench in Writ Petition (S/B) No.539 of 2019 dated 9.1.2020. Though the petitioner ought to have invoked

the jurisdiction of the Central Administrative Tribunal in the first instance, we have called upon the respondent to respond to this limited extent.

3. Mr. Pradeep Joshi, learned Standing Counsel for the State of Uttarakhand, would submit that the administrative department had, by its proceedings

dated 24.01.2002, reiterated its earlier view; the Vigilance Department had earlier, by its proceedings dated 19.09.2019, emphasized on the need to

shift the petitioner from a sensitive to a non-sensitive post since an FIR was registered against him, under the Prevention of Corruption Act, on

14.08.2019; notice was issued to the petitioner on 30.01.2020 to which he had submitted his reply on 18.02.2020; the Civil Services Board had, by proceedings dated 19.03.2020, recommended the petitioner's transfer; and, later, approval of the Forest Minister and the Chief Minister was obtained on 09.06.2020.

4. While Mr. Tapan Singh, learned Counsel for the petitioner, would submit that notice to the petitioner should have been issued by the Civil Service Board, and not by the Additional Secretary, the submission urged on behalf of the respondent is that the notice, and the reply thereto from the petitioner, were considered by the Civil Service Board along with views expressed by the administrative department in its letter dated 24.01.2020; and only thereafter did the Civil Service Board recommend the petitioner's transfer by proceedings dated 19.03.2020. Since the requirements of the rules, which as noted by the earlier Division Bench had not hitherto been complied with, now appears to have been substantially complied with, we are of the, prima facie, view that the order passed in WPSB No.539 of 2019 dated 09.01.2020 has not been violated.

5. Since the subject matter of this writ petition ought to have been agitated before the Central Administrative Tribunal in the first instance, in the light of the law declared by the Supreme Court in L. Chandra Kumar Vs. Union of India : AIR 1997, SC 1125, we see no reason to entertain this writ petition.

6. It is open to the petitioner to avail the remedy of approaching the Tribunal. Needless to state that, in case the petitioner approaches the Central Administrative Tribunal, his claim shall be examined on its merits uninfluenced by the observations made by us in this order.

7. Subject to the aforesaid observations, the writ petition fails and is, accordingly, dismissed.