
(2011) 09 UK CK 0024

In the Uttarakhand High Court

Case No : Writ Petition No. 1322 (SS) of 2011

Km. Deep Joshi

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 29-09-2011

Acts Referred:

Citation : (2011) 09 UK CK 0024

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Bhagwat Mehra, Advocate for the Petitioner and Mr. H.M. Raturi, learned Standing counsel for the State of Uttarakhand.

2. The Petitioner is a Junior Clerk in Medical and Health Services Uttarakhand in the office of Deputy Chief Medical Officer, Nainital. She has been transferred from district Nainital to district Champawat on administrative grounds, without assigning any reasons.

3. Learned Counsel for the Petitioner submitted that though the transfer on administrative ground is permissible but reasons must be recorded if the transfer has to be made on administrative ground in view of the Full Bench of this Court in the case of Smt. Damyanti Bisht v. State of Uttarakhand reported in 2008 (2) U.D. 517 wherein it has been held that though transfers on administrative grounds are permissible but the authority concerned must assign the reasons. Relevant portion of the aforesaid judgment reads as under:

We, while upholding the aforesaid view, substitute our own opinion by laying down that even though a transfer order on administrative ground per se is not bad in law, no person can be transferred on an administrative ground unless before issuing the transfer order, the Authority competent to transfer has arrived at and recorded his satisfaction, upon due verification and confirmation, about the existence and truthfulness of any one of the three factors/grounds/considerations warranting the transfer of the person concerned.

4. Prima facie, there is some substance in the argument of the Petitioner. As such, until further orders of this Court, the effect and operation of the impugned order dated 15.07.2011 passed by Respondent No. 1, which was subsequently modified vide order dated 30.08.2011 shall remain stayed.
5. Learned standing counsel prays for three weeks' time to file the counter affidavit. Time granted.
6. Rejoinder affidavit be filed within two weeks thereafter.
7. List this petition after six weeks in the daily cause list.