
(2011) 11 UK CK 0056

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 982 of 2011

Manoj Tiwari

APPELLANT

Vs

State Project Director and Others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Citation : (2011) 11 UK CK 0056

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Hon'ble Sudhanshu Dhulia, J.—Heard Mr. Manoj Tiwari, Senior Advocate assisted by Mr. Alok Mehra, Advocate for the petitioner, Mr. N.P. Sah, Standing Counsel present for the State of Uttarakhand, Mr. M.S. Pal, Senior Advocate assisted by Mr. T.P.S. Takuli, Advocate for the intervener and Ms. Prabha Naithani, Advocate present for respondent no. 3.

2. The petitioner is a primary school teacher who was initially appointed as a coordinator in a Cluster Resource Centre from 26.5.1996 to 22.8.2003. Thereafter he was appointed as Coordinator in Block Resource Centre (from hereinafter referred to as BRC), Pirumadara, Ramnagar, Nainital. This post of coordinator in BRC is under an Education Project of Government of India known as "Education for All". The petitioner was appointed as a Coordinator in BRC Pirumadara, Ramnagar, Nainital in the year 2003, however, in the year 2007 vide order dated 17.4.2007 the petitioner was reverted to his original post of Assistant Teacher. The petitioner challenged the order dated 17.4.2007 by filing a writ petition being Writ Petition (S/S) No. 491 of 2007 which was disposed of by a learned Single Judge of this Court vide order dated 10.5.2011 with the direction to the concerned authority to pass a fresh order of transfer. Consequently another order was passed by the respondent authority dated 17.5.2010 and the petitioner was again posted as Coordinator, BRC, Pirumadara, Ramnagar, Nainital. The case of the petitioner is that no sooner had he joined the post of Coordinator, BRC, Pirumadara, respondent no. 2 i.e. the District Project

Officer, "Sarva Shiksha Abhiyan", Nainital passed the impugned order stating that he has received "telephonic instructions", by higher authorities, therefore the petitioner should leave the post of Coordinator, BRC with immediate effect and join the original post of Assistant Teacher. This order has been presently challenged by the petitioner stating that the order has been passed without giving any opportunity of hearing to the petitioner and the concerned authority has passed the order on a complaint made by respondent no. 3 who has a grudge against the petitioner, etc. The petitioner also alleges that the present post which he is holding is a supervisory post where he has certain administrative powers and therefore he has a different status now in the Education Department, though he may not have any higher monetary gains on this post.

3. Although there are no specific rules for appointment of a Coordinator in BRC, at least none which has been brought before this Court, yet this Court is of the view that before passing the impugned order at least a notice or opportunity of hearing was liable to be given to the petitioner. This not being given, the impugned order dated 28.7.2011 is liable to be set aside and is hereby set aside.

4. The case of the State as well as respondent no. 3 is that there are various complaints against the petitioner and therefore he does not inspire confidence as a coordinator of BRC. There is another intervener to the writ petition who is represented by Senior Advocate Mr. M.S. Pal, who states that after the charge was taken away from the petitioner, it was liable to be given to him.

5. Having heard all the above claims and counter claims, since the impugned order is set aside, the State Project Director, "Sarva Shiksha Abhiyan", Dehradun i.e. respondent no. 1 is hereby directed to give notice and opportunity of hearing to the petitioner as well as to respondent no. 3 and other officer concerned, including the intervener, namely, Govind Singh, and pass an appropriate order in the matter. In case, he comes to the conclusion that the responsibility of a coordinator is not liable to be given to the petitioner, he shall pass appropriate orders thereon and any consequent orders thereof. It is further directed that the State Project Director, "Sarva Shiksha Abhiyan", Dehradun/respondent no. 1 shall take a decision on this matter within a period of six weeks from the date a certified copy of this order is produced before him.

6. With the above observations, writ petition is disposed of.

7. No order as to costs.