

(2024) 09 UK CK 0023

In the Uttarakhand High Court

Case No : Writ Petition Service Single No. 1647, 1649 Of 2024

Mukul Kumar Agrawal And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 02-09-2024

Acts Referred:

Uttarakhand Annual transfer Of Public Servants Act, 2017 — Section 18(4), 22(4)

Citation : (2024) 09 UK CK 0023

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Menka Tripathi, Yogesh Pacholia, Rajiv S. Bisht

Final Decision : Disposed Of

Judgement

Pankaj Purohit, J

1. Heard.

2. Since common questions of law and facts are involved, hence these petitions have been taken up together and decided by this common judgment. For the sake of brevity, facts of WPSS No.1647 of 2018 alone are being considered.

3. By means of this petition, petitioner has impugned the transfer order dated 20.8.2024 (Annexure No.1 to the petition), whereby he has been transferred from Mobile Squad, Majhola to the office of ARTO, Tehri Garhwal. The transfer is mainly impugned by petitioner on the ground that according to the said order, he has been transferred on administrative grounds, but the petitioner has never been confronted with the complaint, if any, against him as prescribed under Section 18(4) of the provisions of the Uttarakhand Annual transfer of Public Servants Act, 2017 {to be referred to as "Act of 2017"}.

4. On the last date, State counsel was asked to seek instructions. Today, instructions dated 02.09.2024 is passed on to this Court which are taken on record. On the basis of those instructions, learned State Counsel submits that

since there were complaints received from different sources against the petitioner, hence, he was transferred by the impugned order. However, the instructions are silent on the point whether the said complaint(s) was ever confronted with the petitioner, or he was put to any enquiry, even preliminary, regarding those complaints. It is further submitted by learned State Counsel, on instructions, that u/s 22(4) of the Act of 2017, the petitioner may submit representation within three days to one rank higher than the transfer authority.

5. Learned counsel for petitioner submits that transfer order of petitioner is quite contrary to express provision of law, and therefore, the same cannot be sustained.

6. Having considered the submissions made by learned Counsel for the parties, and in particular, the submission made by learned State Counsel that if representation is made by petitioners, their grievance would be considered by the respondent authorities positively, both these writ petitions are disposed of with the observation that if petitioners move a representation to the respondent no.1-Secretary (Transport) Govt. of Uttarakhand within a period of seven days from today against the impugned transfer order, which apparently appears to be in contravention of the express provision of Section 18(4) of the Act, and if such a representation is moved within seven days from today i.e. latest by 09.09.2024, respondent no.1 shall decide the representation of petitioners by a reasoned and speaking order within two weeks thereafter.

7. Till the representation is decided, the impugned transfer order shall remain stayed qua petitioners.

8. Needless to say that if no representation(s) is made by the petitioners within seven days of this order i.e. latest by 09.09.2024, the benefit of this order would come to an end.

9. Pending application, if any, stands disposed of.