(2003) 10 AHC CK 0119

In the Allahabad High Court

Case No : Writ Petition No.1317 (S/B).of 2003

Munna Lal Maurya APPELLANT

Vs

State of U.P.and Others RESPONDENT

Date of Decision : 24-10-2003

Acts Referred:

Uttar Pradesh State Power Sector Reforms (Transfer of Distribution Undertakings) Scheme, 2003 — Para 8

Citation : (2003) 10 AHC CK 0119

Hon'ble Judges : Jagdish Bhalla, J and P.K.Chatterji, J

Final Decision : Dismissed

Judgement

1. This writ petition is directed against the order of transfer dated 12.9.2003 from one company to another company along with three other persons.

2. Heard learned counsel for the parties.

3. It has been contended on behalf of the petitioner that by way of letter dated 11.9.2003 options were invited from the employees in respect of transfer and a committee was also constituted to consider the options. Thereafter on the following day before the petitioner could exercise his option, he was transferred to another company on deputation, therefore, it is bad in law.

4. Learned counsel for the petitioner has relied upon Sudarsh Awasthi v. Bank of India, reported in (2001) 19 LCD 1200, wherein it has been held that an incumbent cannot be sent on deputation without his consent. Further learned counsel for the petitioner has also relied upon two judgments of the Apex Court i.e. (1) State of Punjab v. Inder Singh, reported in 1997 Vol. 8 Supreme Court Cases para 18 and (2) Umapati Chaudhry v. State of Bihar and another, reported in 1999 Vol. 4 Supreme Court Cases para 8 in support of the contention raised by him.

5. Sri Vishal Singh, learned counsel appearing for respondents has relied upon State of Rajasthan and others v. Anand Prakash Solanki, 2003 Vol.7 Supreme

Court Cases page 403, where inherent powers of the competent authority with regard to transfer has been indicated even in the absence of a scheme. It was pointed out that the petitioner''s services are governed by the provision of U.P. State Power Sector Reforms (Transfer of Distribution Undertakings) Scheme, 2003 and has drawn our attention to provision 8 of the scheme, where in it is provided that all transfer of the personnel from U.P.P.C.L. to the distribution company under Rule 4 shall be provisional for a period of twelve months and after this period the transfer shall be treated as final, subject to any order passed by the State Government under subRule (3). It is further provided that State Government within 30 days from the effective date of transfer constitute a Committee to receive representations from personnel. The Committee shall consider representation so received based on the need of transferees, suitability of personnel, organizational requirements and (sic) relevant factors, keeping consistency with the over all objectives of the Act and make recommendations to the State Government within six months of the notification of the transfer Scheme. It was further provided that at any time within a period of twelve months from the effective date of transfer, the State Government may, by order to be notified, amend vary modify or otherwise change the transfer.

6. The petitioner who was appointed as Account Officer in the Power Corporation and has been transferred to Agra in one of the companies in the light of Rule 8. From the perusal of the record in the present context, we do not find that there is any provision for taking consent of the employee, even on transfer of the personnel from the U.P. Power Corporation to Distribution Company under Rule 4 provisionally for a period of twelve months. The transfer of the petitioner is governed by Rule 8. The petitioner will have cause of action if after twelve months no specific orders are passed. At this stage we do not find that consent of the petitioner is required. Accordingly no interference is warranted under Article 226 of the Constitution of India.

7. The writ petition is accordingly dismissed.

(Petition dismissed)

