

(1997) 09 AHC CK 0031

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 29399 of 1997

Prahlad Singh Mehta

APPELLANT

Vs

Director, Prantiya Rakshak Dal and Others

RESPONDENT

Date of Decision : 05-09-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 2 UPLBEC 1022

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : P.S. Adhikari, for the Appellant;

Final Decision : Dismissed

Judgement

D.K. Seth, J.—The petitioner assails the order contained in Annexure-12 to the writ petition, being dated 11.6.1997 and the order dated 25.1.1997 contained in Annexure-8 to the writ petition. By an order dated 15.1.1997 the petitioner was transferred from Lohaghat to Munshiyari, both in the district of Pithoragarh. The said order was suspended by order dated 28.2.1997, which is Annexure-10 to the writ petition. By the order dated 11.6.1997 the order dated 28.2.1997 has been suspended. By reason thereof the order dated 25.1.1997 has been revived.

2. Shri P.S. Adhikari, learned Counsel for the petitioner assails the said order on the ground that the petitioner has been subjected to certain inquiry and, therefore, until inquiry report is obtained he cannot be transferred. Secondly he contends that the petitioner's performance is "very good". Therefore, also he should not be transferred. The third contention is that the transfer is a mid session transfer and on account of the said transfer his children will suffer. On these grounds he has assailed the order of transfer. It appears from Annexure "1H" to the petition, which was issued on 25.7.1992, being a certificate that the petitioner's work in the year 1991-92 was "very good". In the said certificate it has been pointed out that he was posted at Lohaghat. Therefore, it appears that the petitioner was posted at Lohaghat sometimes in the year 1991-92. In the

writ petition no where it has been pointed out as to when he was posted in Lohaghat. Thus the petitioner is continuing for the last five or six years at Lohaghat. The order dated 25.1.1997 was, in fact, mid session transfer, but the same having been suspended and the order of transfer dated 25.1.1997 having been given effect to on 11.6.1997 it cannot be said to be mid session transfer. Therefore, the third point argued by the learned Counsel for the petitioner cannot be sustained. The other points, namely, that the performance of the petitioner was "very good", therefore, he should not be transferred cannot be a ground to challenge the order of transfer. Good performance does not mean that a person should remain posted at a particular place of his liking. So far as the enquiry is concerned, the petitioner has not been subjected to any disciplinary enquiry or domestic enquiry and the said ground also cannot be sustained.

3. Learned Counsel for the petitioner, however, very fairly submits that the enquiry has been completed and the enquiry report has already been submitted before the respondent. Therefore, the same cannot be a ground for challenging the order of transfer.

4. For all these reasons I am not inclined to interfere with the impugned order or transfer or its revival as contained in Annexures-"8" and "12" to the petition respectively. The writ petition, therefore, fails and is accordingly dismissed. There will be, however, no order as to costs.

5. Let a copy of this order be given to the Learned Counsel for the petitioner on payment of usual charges within a week.