
(1999) 07 AHC CK 0139
In the Allahabad High Court
Case No : C.M.W.P. No. 30814 of 1996

Raj Pati Yadav

APPELLANT

Vs

District Magistrate/Collector, Bhadohi and others

RESPONDENT

Date of Decision : 29-07-1999

Acts Referred:

Citation : (1999) 3 AWC 2664 : (1999) 3 UPLBEC 2051

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

Bench : Single Bench

Advocate : S.N. Singh, for the Appellant; K.R. Singh, S.C., for the Respondent

Final Decision : Dismissed

Judgement

D.K. Seth, J.—The petitioner alleges that he was appointed against a leave vacancy. The person who was on leave did not come back. According to the counsel for the petitioner Mr. S. N. Singh submits that the petitioner's appointment would cease only when the person who had gone on leave, comes back or a regularly selected candidate Joins. By virtue of an order dated 22nd August, 1996, contained in Annexure-8, someone else has been sought to be transferred and posted against the post in which the petitioner was allowed to function. He has challenged this order in this writ petition.

2. Mr. K. R. Singh. learned standing counsel contends that since the appointment of the petitioner was in leave vacancy, he cannot claim any right to the post. Such vacancy can be filled up by recruitment or by transfer. There is no embargo in filling up of the vacancy by transfer. It is up to the administration whether such post should be filled up by transfer or by recruitment. In such circumstances, the petitioner cannot claim any legal right.

3. Admittedly, no Interim order was granted. The order had taken effect. If the petitioner was engaged on leave vacancy, he could continue there till the person on leave comes back or if the person who is on leave does not come back in that event, he may continue till the vacancy is filled up either by recruitment or by

transfer as the Department may decide. In such circumstances, the petitioner cannot claim any legal right to continue having been appointed against a leave vacancy which itself is ad hoc appointment for limited period. The appointment against leave vacancy does not confer any legal right on the appointee. He cannot challenge the order of transfer relating to some other person who had sought such transfer on his own request.

4. In such circumstances, I am unable to agree with the contention of Mr. S. N. Singh, counsel for the petitioner. The writ petitioner therefore, fails and is, accordingly, dismissed.

5. However, there will be no order as to costs.