
(2021) 07 UK CK 0080

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 248 Of 2021

Rajendra Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 12-07-2021

Acts Referred:

Citation : (2021) 07 UK CK 0080

Hon'ble Judges : Raghvendra Singh Chauhan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Ganesh Kandpal, Rakesh Thapliyal

Final Decision : Dismissed

Judgement

Raghvendra Singh Chauhan, CJ

1. Mr. Rajendra Kumar, the petitioner, has challenged the legality of the transfer order dated 24.06.2021, whereby the petitioner has been transferred

from Dehradun Sector Headquarter Center Reserve Police Force, Dehradun to Western Sector Navi Mumbai.

2. Briefly, the facts of the case are that on 18.11.1995 the petitioner was appointed as ASI, Ministerial in Group Center, Central Reserve Police Force,

Jalandhar, Punjab. Subsequently, he was promoted on different posts. By order dated 16.04.2020, the petitioner was transferred from Group Center

Reserve Police Force Kathgodam in District Nainital to Dehradun Sector Headquarter Center Reserve Police Force, Dehradun. In compliance of the

same, the petitioner joined his duties on 13.07.2020. By order dated 25.01.2021, the petitioner has been promoted on the post of Assistant Commander

(Official Language), and is posted at Directorate, Central Reserve Police Force.

According to the Standing Orders dated 29.12.2016, the petitioner was supposed to have a tenure of three years at the present place of posting. However, by the transfer order dated 24.06.2021, the petitioner has been transferred as aforementioned. Hence, this petition before this Court.

3. Mr. Ganesh Kandpal, the learned counsel for the petitioner, submits that according to the Standing Orders dated 29.12.2016, the petitioner could not have been transferred, as the petitioner had not completed his tenure of three years. Secondly, even on an earlier occasion, when the petitioner was promoted, he was not transferred as he had not completed his tenure of three years. Therefore, even presently the transfer order is an illegal one; hence, deserves to be set aside by this Court.

4. Heard learned counsel for the petitioner, and perused the transfer order, and the Standing Orders dated 29.12.2016.

5. A bare perusal of the Standing Orders dated 29.12.2016 clearly reveals that Standing Order No. 7 speaks about three different types of transfers,

namely "summer chain transfers", "transfer on promotion", and "other administrative transfers". Although, the learned counsel claims

that the Standing Orders dated 29.12.2016 are mandatory in nature, in catena of cases, the Hon'ble Supreme Court has clearly opined that

Standing Orders dealing with transfer are merely directory in nature, and not mandatory in nature.

6. Moreover, a bare perusal of the Standing Orders clearly reveals that Standing Order No. 19 clearly empowers the respondent to transfer a person

on administrative grounds, even if the person has not completed his tenure of three years. Therefore, the contention raised by the learned counsel for

the petitioner, that the transfer order is an illegal one, is unsustainable.

7. Even if the petitioner was not transferred on the previous occasion after being promoted, the said position will not create an estoppel against the

respondents. For, there is no estoppel against a statute. Therefore, the said argument is clearly unacceptable.

8. For the reasons stated above, this Court does not find any merit in the present writ petition. It is, hereby, dismissed.

9. No order as to cost.