
(2019) 02 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition (S Of B) No. 67 Of 2019

Rajesh Tyagi

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 19-02-2019

Acts Referred:

Citation : (2019) 02 UK CK 0020

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Navneet Kaushik, D.S. Patni

Final Decision : Disposed Off

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri Navneet Kaushik, learned counsel for the petitioner and Sri D.S. Patni, learned counsel for the State Bank of India and, with their consent, this writ petition is being disposed of at the stage of admission.

2. The petitioner, an employee of the State Bank of India in the Meerut module, was transferred, in accordance with the extant policy, to Dehradun module. On his having completed three years of service at Dehradun, he was liable to be transferred back to Meerut module in the year 2018. The petitioner sought his retention at Dehradun module for one year, on the ground that his daughter was undergoing her final year graduation. His request was acceded to, and he was retained for a period of one year at the Dehradun module.

3. The petitioner claims that, under the repatriation policy, he is liable to be repatriated back to Meerut module in April, 2019. While matters stood thus, the petitioner was transferred, by proceedings dated 05.10.2018, and was directed to report to the DGM (B&O), Haldwani.

4. Contending that the Deputy General Manager lacked jurisdiction to pass the impugned order, the petitioner invoked the jurisdiction of this Court by filing Writ

Petition (S/B) No. 564 of 2018 wherein he claimed that the impugned order should have been passed by the General Manager, and not by the Deputy General Manager.

5. We had, by our order dated 07.12.2018, set aside the order of transfer passed by the Deputy General Manager making it clear that the order passed by us would not disable the General Manager from passing a fresh order of transfer in accordance with law. Thereafter the impugned order dated 17.01.2019 was passed, by the Regional Manager, wherein it is recorded that it has been decided by the competent authority to post the petitioner permanently at Guptkashi Branch as an Accountant. This order was made, pursuant to the order passed by the Chief Manager on 16.01.2019 informing the petitioner that it has been decided, by the competent authority, to place the services of the petitioner under Region-4, State Bank of India, Administrative Office, Dehradun; and he should report to the Regional Manager, Region-4, State Bank of India, Administrative Office at Dehradun.

6. While the jurisdiction of the Chief Manager and the Regional Manager, who passed the impugned orders, is put in issue in the writ petition, Sri D.S. Patni, learned counsel for the respondent Bank, would place before us a copy of the proceedings of the Deputy General Manager dated 16.01.2019 informing the Chief Manager that it had been decided to place the services of the petitioner to Region-4 Branch; and he should be relieved on the same day with instructions to immediately report to the Regional Manager, Region-4.

7. It does appear, therefore, that the said order was passed by the Deputy General Manager, who is the competent authority. The fact, however, remains that the Regional Manager, by his order dated 17.01.2019, informed the petitioner that it had been decided by the competent authority to post the petitioner "permanently" at Guptkashi as an Accountant. The use of word "permanently", in the impugned order, does lend support to the submission of Sri Navneet Kaushi, learned counsel for the petitioner, that the petitioner is being punished for having invoked the jurisdiction of this Court. It is unnecessary for us to dwell on this aspect any further, as Sri D.S. Patni, learned counsel for the respondent Bank, would fairly state that use of the word "permanently", in the impugned order, is erroneous; and it is not the intention of the respondent-authorities to post the petitioner permanently at Guptkashi.

8. While Sri D.S. Patni, learned counsel for the respondent Bank, suggested that we delete the word "permanently" in the impugned order, we must bear in mind that, in the exercise of the power of judicial review, this Court would not substitute the impugned order with another. Suffice it, therefore, to set aside the order of the Regional Manager dated 17.01.2019, leaving it open to him to pass a fresh order in accordance with law.

9. The writ petition stands disposed of accordingly. No costs.

10. Let a certified copy of this order be issued to the parties, by 20.02.2019, on

payment of the prescribed charges.