
(1987) 12 AHC CK 0037
In the Allahabad High Court
Case No : Writ Petition No. 7865 of 1987

Ram Kishan Mlsra

APPELLANT

Vs

U.P.Board of Basic Education, Allahabad & Another

RESPONDENT

Date of Decision : 15-12-1987

Acts Referred:

Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 — Rule 21

Citation : (1987) 12 AHC CK 0037

Hon'ble Judges : S.C.Mathur, J and O.B.Singh, J

Final Decision : Dismissed

Judgement

S.C. Mathur, J.—This petition is directed against the petitioner's transfer from one institution to another falling in different blocks. The transfer order has been challenged on two grounds: 1, The post is not transferable, and 2, It is in violation of the transfer policy dated 12.5.1987 (Annexure2).

2. The petitioner admits that his services are governed by the U.P. Basic Education (Teachers) Service Rules, 1981. Rule 21 of these Rules says that "there shall be no transfer of any teacher from the rural local area to an urban local area or vice versa or from one urban local area to another of the same district or from local area of one district to that of another district except on the request of or with the consent of the teacher himself and in either case, with the approval of the Board. "From this provision it would appear that the services are transferable.

3. Learned counsel for the petitioner has submitted that rule 21 uses the word "teacher" while the petitioner is holding the post of Headmaster and, therefore, he is not covered by rule 21. The term "teacher" has been denned in rule 2 (0) to mean a person employed for imparting instructions in Nursery Schools, Basic Schools, Junior Basic Schools, or Senior Basic Schools. The petitioner does not dispute that he does the work of imparting instructions in a basic school. He is, therefore, covered by the definition of the term "teacher" contained in rule 2(o). The first ground of challenge, therefore, fails.

4. The transfer policy contained in Annexure 2 provides that the transfer orders should be passed by 31st of July, 1987. The transfer policy does not appear to have statutory basis. Accordingly on the basis of violation of the transfer policy no approach can be made to this court under Article 226 of the Constitution. The petitioner's remedy lies in approaching departmental authorities as laid down by their Lordships of the Supreme Court in *Skanti Kumari v. Regional Deputy Director, Health Services, Patna Division, Patna* (AIR 1981 Supreme Court 1577). Learned counsel for the petitioner has stated that the petitioner has preferred a representation to the District Basic Education Officer. We hope that the representation shall be disposed of expeditiously.

5. In view of the above the petition is dismissed in limine.