
(1992) 07 AHC CK 0022
In the Allahabad High Court
Case No : Writ Petition No. 27533 of 1992

Ram Pravesh Yadav

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 13-07-1992

Acts Referred:

Town Area Committee and Notified Area Committee (Centralised Services) Rules, 1976
— Rule 25, 4

Citation : (1992) 3 AWC 1702

Hon'ble Judges : D.P.S. Chauhan, J

Bench : Single Bench

Advocate : Raja Ram Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

D.P.S. Chauhan, J.—Heard learned Counsel for the Petitioner.

2. By means of this petition, the Petitioner the order dated 2-7-1992 relating to his transfer.

3. Learned Counsel for the Petitioner made two fold submissions. Firstly, that one Vindhyachal Prasad Gupta filed a writ petition against the order of his transfer whereby he was transferred from the town area, Allahabad to District Azamgarh, Which is pending and where in an interim order was passed staying the transfer order with a direction to the concerned authority to decide his representation So far as Vindhyachal Prasad Gupta is concerned, in pursuance of this Court's order, his transfer is not disturbed by the impugned order. Learned Counsel for the Petitioner has expressed his apprehension that the Petitioner would commit contempt of this Court if he joins at the place of his (Vindhyachal Prasad Gupta) transfer. The submission is misfounded. There is no question of commission of any contempt by the Petitioner. The Petitioner is not posted at the place of posting of Vindhyachal Prasad Gupta where he was allowed to stay by this Court and, even if it was so, even then he could not be held to be at fault and cannot

be held to be guilty of contempt.

4. Secondly, learned Counsel for the Petitioner while relying upon Rule 25 of the Town Area Committee and notified area committee (Centralised Services) Rules, 1976 relating to transfer, which is as extracted below, submitted that the order of transfer is without authority of law.

25. Sthanantaran - Zila Magistrate, kendriyit Sewaon ke kisi adhikari ko apne tale ke aek committee se dusre committee me sthanantarit kar sakta hai.

(2) Division ka ayukt, kendriyit Sewaon ke kisi adhikari ko apne division ke bhitari aek committee se dusre committee me sthanantarit kar sakta hai.

(3) Rajya Sarkar kendriyit Sewaon ke kisi bhi adhikari ko rajya ke aek division se dusre division me bhi sthanantarit kar sakti hai, kintu sabhi mamlon me Town Area ke barshi/sachiv ko kebal town area me sthanantarit kiya jayega aur notified area ke sachiv/barshi adhikshak ko kebal notified area me sthanantarit kiya jayega.

(4) Koy committee kendriyit Sewaon ke kisi adhikari ka sthanantaran committee ke do tihain sadasyaon ke bahu mat se is asay ka aek bishesh sankalp parit karke kar sakti hai aur yadi Zila Magistrate athaba ayukt aise kisi committee ke ichhanusar karya ko kare to rajya sarkar dwara uska sthanantaran kiya jayega.

5. Learned Counsel for the Petitioner, while developing argument on second submission, submitted that the transfer within a district can be made by the District Magistrate and transfer within the Division can be made by the Commissioner and, in this view of the matters the impugned order of transfer though is made by the State Government, is bad as it is made outside Division This argument of the learned Counsel for the Petitioner has also got no substance. In view of Clause 3 of Rule 25, which empowers the State Government for transfer of any officer from one Division to another. In this connection learned Counsel for the Petitioner placed reliance upon Clause 4 of Rule 25 and built up the argument that if Clauses 2 and 3 of Rule 25 are read together, the State Government has no authority to make transfer unless the Committee passes a resolution soliciting transfer of an employee. This submission cannot be accepted. The power under Clause 3 is not subject to Clause 4 of Rule 25. Clause 3 of Rule 25 is independent and the State Government may transfer any officer from one Division to another. The power under Rule 4 is a power which operates in different fields The Town Area Committee has been invested with the authority for requesting either the District Magistrate or the Commissioner of the Division for transfer of a person from the concerned Town Area provided a resolution is passed by the Town Area with a voice vote It is only in a case where the District Magistrate or the Commissioner, as the case may be, keep silence and take action on the resolution of the Town Area Committee, then the Town committee can approach the State Government for transfer. Thus the under Clauses 3 and 4 operates in separate field and exists in separate(sic)

6. The State Government has got the authority to transfer a member of the Centralised Services from one Division to another.
7. The petition has got no substance and is accordingly dismissed.