

(2024) 08 UK CK 0150

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1523 Of 2024

Ram Singh Kathayat

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 21-08-2024

Acts Referred:

Citation : (2024) 08 UK CK 0150

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Vinay Kumar, Rajeev Singh Bisht

Final Decision : Disposed Of

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.
2. By means of this writ petition, petitioner has challenged his transfer order dated 09.06.2023 (Annexure No.3), whereby, he has been transferred from Tarai East Forest Division, Haldwani to Tarai Central Forest Division, Rudrapur, as well as the communication dated 23.07.2024 (Annexure No.9), whereby, he has been relieved to the transferred place pursuant to the impugned transfer order dated 09.06.2023. Petitioner has taken various grounds to assail the transfer order.
3. Vide order dated 16.08.2024, learned State Counsel was directed to seek instructions in the matter as to why the petitioner has not been relieved pursuant to transfer order dated 09.06.2023.
4. Today, learned State Counsel has passed on the written instruction dated 20.08.2024 to this Court, which is taken on record. Relying upon this instruction, learned State Counsel submits that last year, when the petitioner was transferred pursuant to the impugned transfer order, there was dearth of Forest Guards in the Division and for that reason, he could not be relieved. But, now, after appointment of 81 new Forest Guards in Tarai East Forest Division, no such

dearth is at present there in the Division and accordingly, pursuant to the earlier impugned transfer order dated 09.06.2023, petitioner was relieved vide order dated 23.07.2024. It is also contended by learned State Counsel that on 06.08.2024, petitioner has been relieved from Tarai East Forest Division, Haldwani.

5. It is vehemently argued by learned counsel for the petitioner that the petitioner's service is a divisional service and he cannot be transferred from one forest division to another forest division as a Forest Guard. Since, the petitioner has been transferred from one forest division to another forest division, the transfer order seems to be bad in law and, therefore, it cannot be sustained.

6. Learned counsel for the petitioner has drawn the attention of this Court on Annexure No.2 to the writ petition to submit that the post of Forest Guard is a divisional cadre post.

7. Having gone through the annexure No.2 carefully, this Court is of the view that against the post of Forest Guard district is written so it would be no fair to reach to this conclusion that the post of Forest Guard is divisional cadre post. Thus, at this stage, the argument advanced by learned counsel for the petitioner is repelled.

8. Learned counsel for the petitioner has made an innocuous prayer that the petitioner would file a representation to the respondent No.4 and the justice would be met, if respondent No.4 is directed to decide the said representation so made by the petitioner within a stipulated period.

9. In this view of the matter, writ petition is finally disposed of and it is provided that the petitioner shall move a representation to the respondent No.4-Divisional Forest Officer, Tarai East Forest Division, Haldwani within a period of 03 days from today and respondent No.4 shall take a decision on the said representation of the petitioner, by a reasoned and speaking order, within a period of further 10 days, keeping in mind if post of Forest Guard is a divisional post and if he cannot be transferred from one forest division to another forest division. Till then, impugned transfer order dated 09.06.2023 and relieving order dated 23.07.2024 is kept in abeyance. It is also provided that in case, if petitioner does not submit his representation within 03 days, this order will not provide any protection to the petitioner.

10. Pending application(s), if any, stands disposed of accordingly.