
(2019) 10 UK CK 0033

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1933 Of 2019

Ramesh Chandra Bahuguna

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 15-10-2019

Acts Referred:

Citation : (2019) 10 UK CK 0033

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : M.C. Kandpla, Chitrarth Kandpal, K.N. Joshi, Seema Sah

Final Decision : Allowed

Judgement

Lok Pal Singh, J

1. Petitioner has approached this Court seeking the following reliefs:-

i) Issue a writ, order or direction in the nature of certiorari to quash the order dated 31.07.2019 passed by respondent no.2 Director General, Medical Health and Family Welfare Uttarakhand, Dehradun wherein he has ignored the directions in the Court dated 28.06.2019 communicated through the representation dated 2.7.2019.

ii) Issue a writ, order or direction in the nature of certiorari to quash the order dated 24.06.2019 passed by respondent no.2 Director General, Medical Health and Family Welfare, Uttarakhand, Dehradun, on the basis of which the petitioner is transferred from C.H.C. Raipur Dehradun to C.H.C. Sahiya Dehradun.

2. Facts, in nutshell, are that the petitioner was initially appointed as the Pharmacist at S.A.D. Sairfatak, Almora (Durgam area) on 22.06.1989. He served at different durgam areas for a period of about 17 years. On 20.09.2018, the petitioner and one other Pharmacist C.K. Bhatt moved applications for transfer at each other's place with mutual consent. The application was forwarded to the Chief Medical Officer, Dehradun by the Medical Officer, C.H.C. Raipur, Dehradun,

however no decision was taken on the same, and by impugned order dated 24.06.2019, petitioner was transferred from C.H.C. Raipur, Dehradun to C.H.C., Sahiya, Dehradun, on administrative ground. Against the transfer order, petitioner moved representations before the authority concerned but no decision was taken thereon. Petitioner thus filed the writ petition being WPSS No.1570 of 2019 before this Court. This Court, vide order dated 08.07.2019, disposed of the writ petition directing the authority concerned to take a decision on the representations moved by the petitioner by passing a reasoned and speaking order within a period of four weeks. It was also directed that till the decision is taken, impugned transfer order shall be kept in abeyance. Thereafter, Director General, Medical Health, by a detailed order, rejected the representation of the petitioner. While rejecting the representation, it was observed that the petitioner has been transferred to Durgam area keeping in mind the services rendered by him in Sugam area continuously for about 10 years, and that he does not fulfill the criteria of completing 55 years of age.

3. I have heard learned counsel for the parties and perused the entire material available on file.

4. While rejecting the representation, the respondent no.2 has taken a stand that the petitioner has served for more than 10 years in Sugam area therefore he is being transferred to Durgam area, as also the fact that he does not complete 55 years of age as on date, whereas a perusal of the impugned order of transfer dated 24.06.2019 would reveal that the transfer has been effected on administrative ground keeping in mind the public interest but it does not specify as to what public interest. Section 18(4) of the Act provides that on enquiry, on the grounds of serious complaints of misconduct, misbehavior with senior officers and lack of interest in work etc. after necessary enquiry and confirmation, transfer of such employee may be made on administrative grounds. There is no reference of any complaint, whatsoever, against the petitioner in the transfer order. Impugned transfer order does not fulfill any of the conditions mentioned in sub-section (4) of Section 18 of the Act. There is non-compliance of Section 18(4) of the Act in passing the impugned order of transfer. As regards the order dated 31.07.2019 passed by the respondent no.2 on the representation of the petitioner, the same appears to be punitive in nature. That being the position, impugned transfer order dated 24.06.2019 as well as order dated 31.07.2019 are liable to be set-aside.

4. In view of the above, writ petition is allowed. Impugned orders dated 24.06.2019 and 31.07.2019 are hereby quashed. However, the respondents would be at liberty to pass a fresh transfer order in accordance with law.

5. No order as to costs.