

(2024) 02 UK CK 0054

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 138 Of 2024

Seema Malhotra

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 26-02-2024

Acts Referred:

Annual Transfer Act, 2017 — Section 3(d)

Citation : (2024) 02 UK CK 0054

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Sandeep Kothari, Bhupendra Koranga

Final Decision : Disposed Of

Judgement

Pankaj Purohit, J

1. The matter is listed as defective one, but, it is submitted by learned counsel for the petitioner that the defect is there in the Urgency Application which was filed with the writ petition to take up the matter during vacation. The said Urgency Application is today not pressed, therefore, the defect as pointed by the Registry is overruled, as it has no meaning at present.

2. By means of this writ petition, the petitioner has challenged the order dated 11.07.2022 passed by the Regional Additional Director, Secondary Education, Garhwal Mandal, Pauri Garhwal (Annexure No.4) as well as the order dated 25.01.2024 passed by respondent no.2, whereby, the representation of the petitioner was rejected.

3. It is the case of the petitioner that the petitioner has been transferred by the impugned transfer order from the Government Girls Intermediate College, Narendra Nagar, Tehri Garhwal to Government Higher Secondary Girls School, Kotsada, Kot, Pauri Garhwal.

4. The petitioner has challenged this order by filing a writ petition No.1417 of

2022 (S/S), wherein, the writ petition was disposed of giving liberty to the petitioner to move a representation against the transfer order.

5. According to the petitioner, she was suffering from serious illness as defined under Section 3(d) of the Annual Transfer Act, 2017. The said representation of the petitioner was rejected by the respondent-Authority vide order dated 21.09.2022, which again was put under challenge by filing writ petition No.1920 of 2022 (S/S) on the ground that the aspect of the illness has not been considered by the respondent Authority while rejecting the representation of the petitioner.

6. A Coordinate Bench of this Court vide order dated 21.11.2022 has entertained the writ petition observing that the petitioner may join at the transferred place, however, her joining shall be subject to the final outcome of the writ petition. The said writ petition No.1920 of 2022 (S/S) was also disposed of by a detailed order, wherein, it has been observed that the certificate of illness of the petitioner was submitted, according to which, the petitioner was suffering from serious ailment as defined under "Serious Patient" under Section 3(d) of the Annual Transfer Act, 2017. The genuineness of which was also accepted by the respondent-State on instruction and the writ petition was finally disposed of with a direction to the respondent-Additional Director Education, Pauri Garhwal to reconsider the case of the petitioner, who in her turn would file a fresh representation, within a stipulated period.

7. The petitioner is today before this Court again with the same grievance that the representation has been decided by the concerned Authority vide impugned order dated 25.01.2024 only for the sake of the disposal of the representation of the petitioner; the reason of ailment of the petitioner has not been considered at all and the fact that the identical treatment given to the case of Suneeta Rana has not been given to the petitioner and no heed was given to the petitioner's claims while deciding the representation of the petitioner.

8. I have perused the impugned order dated 25.01.2024. From the perusal of the order, by which the representation was rejected, it only reflects that the representation was rejected simply for the reason that the petitioner had joined at the transferred place ignoring the fact that the Court vide order dated 21.11.2022 had given interim relief that the joining of the petitioner would be subject to the final outcome of the writ petition.

9. In this view of the matter, order dated 25.01.2024 cannot sustain and deserves to be quashed. Accordingly, writ petition is disposed of with a direction to respondent no.2-Regional Additional Director, Secondary Education, Garhwal Region, Pauri Garhwal to reconsider the representation of the petitioner in the light of the judgment rendered by this Court vide order dated 08.01.2024 with speaking order within a period of 10 days from the date of production of certified copy of this order.

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