

(2009) 04 UK CK 0051

In the Uttarakhand High Court

Case No : Writ Petition No. 1904 of 2006 (M/S)

Smt. Swatantrata Goyal

APPELLANT

Vs

Addl. District Judge and Others

RESPONDENT

Date of Decision : 16-04-2009

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14, 14(2), 29(2)

Citation : (2009) 04 UK CK 0051

Hon'ble Judges : Vinod Kumar Gupta, C.J

Bench : Single Bench

Advocate : D.S. Mehta, Holding Brief of M.C. Pant, for the Appellant; Gopal Narayan, for the Respondent

Judgement

V.K. Gupta, C.J.—This is a very, very unfortunate case where litigation in different hierarchies of the courts has been going on for more than 10 years with respect to a mere transfer order of the Petitioner, who is a School Teacher. On 7th October, 1998, the Petitioner was transferred from Patiala (Punjab) to Raiwala, Dehradun (Uttarakhand). The contention of the Respondents is that before the Petitioner could join at Raiwala, vide an order dated 31st October, 1998, her transfer from Patiala to Raiwala was cancelled with a result that she was required to resume duties at Patiala. The Petitioner filed a Civil Suit in the Civil Court at Dehradun complaining against her not being allowed to join at Raiwala and obtained an ad-interim injunction against the Respondents. Thereafter, various rounds of litigation followed ultimately culminating in the passing of an order dated 18th May, 2006 by the learned Addl. District Judge, whereby the interim injunction obtained by the Petitioner against the Respondents was vacated.

2. u/s 14 of the Administrative Tribunals Act, 1985 ("1985 Act" for short), with respect to any service matter, the jurisdiction exclusively vests in the Central Administrative Tribunal constituted under the said Act. It is the undisputed case of the parties before me that Administrative Tribunal, Allahabad Bench has the

territorial jurisdiction in the present case. Under Sub- section (2) of Section 14 of the aforesaid 1985 Act, the Central Government has the power to apply the provisions of the Act to local or other authorities. Vide Notification dated 17th December 1998 issued vide GSR 748 (E), in exercise of the aforesaid power under Sub-section (2) of Section 14 of the Act, the Central Government has applied the provisions of the Act to the organizations mentioned in the said Notification. Kendriya Vidyalaya Sangathan figures at Serial No. 34 of the said Notification. 1st January, 1999 is the date fixed in the said Notification, whereby the provisions of 1985 Act have been made applicable to Kendriya Vidyalaya Sangathan, apart from the other organizations mentioned in the said Notification.

3. As per Section 29(2) of the aforesaid 1985 Act, the proceedings in the present case have to be transferred to Central Administrative Tribunal, Allahabad.

4. While disposing of this petition, I hereby direct that the Suit filed by the Petitioner against the Respondents, pending in the court of Civil Judge (Junior Division), Dehradun, shall stand transferred to Central Administrative Tribunal, Allahabad in terms of the aforesaid Section 29(2) of 1985 Act. The learned Trial Court is directed to take all necessary steps in implementation and compliance of this order.

5. The interim order passed by this Court on 22nd December, 2006 in the present petition had merely stayed the operation of order dated 18th May, 2006 passed by the learned Addl. District Judge, Dehradun. The effect of this interim order could not be and cannot be construed as having stayed the cancellation of the Petitioner's transfer order. The position, which presently stands, is that the Petitioner is bound and was always bound to revert to her original place of posting at Patiala. The Petitioner is, therefore, well advised to report for duty at Patiyala, but her joining at Patiala and continuance there shall remain subject to the outcome of the proceedings in Central Administration Tribunal.

6. The writ petition stands disposed of. No order as to costs.