

(2010) 11 AHC CK 0342
In the Allahabad High Court
Case No : Special Appeal No. 1911 of 2010

Sushila Devi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-11-2010

Acts Referred:

Citation : (2010) 11 AHC CK 0342

Hon'ble Judges : R.K. Agrawal, J;Ashok Srivastava, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present appeal has been filed against the judgment and order dated 01.11.2010 passed by the learned single Judge whereby the writ petition preferred by the present Appellant against the order of transfer has been dismissed.

2. It appears that the Appellant, who was working as Health Visitor (Mahila) at Primary Health Centre, Kuwandanda, Bareilly was transferred vide order dated 13.05.2010 to Primary Health Centre, Shergarh, Bareilly. The order of transfer dated 13.05.2010 was challenged by means of Civil Misc. Writ Petition No. 38576 of 2010, which was disposed of by the judgment and order dated 6.7.2010 with a direction to the Petitioner therein to make a representation to be decided within a time bound period. Pending that representation, the order of transfer to Shergarh was cancelled and she was transferred to Primary Health Centre, Baheri district Bareilly, which was subsequently modified vide order dated 28.09.2009 and she was transferred to the main centre at Baheri. Before the learned single Judge, it was the case of the Petitioner that she was undergoing treatment at Bareilly and, therefore, the transfer order deserves to be set-aside. A plea of transfer in mid-academic session was also raised. Learned single Judge did not accept any of the plea raised by the learned Counsel for the Petitioner and rejected the petition.

3. We have heard Sri R.K. Vaish, Advocate holding brief of Sri D.D. Dubey, learned Counsel for the Appellant and have perused the judgment and order dated 01.11.2010 passed by the learned single Judge giving rise to the present appeal, the grounds taken in the memo of appeal as also the documents filed along with it.

4. Before us, the learned Counsel submitted that as the Appellant was undergoing treatment at Bareilly, the order of transfer ought not to have been made on humanitarian grounds. He further submitted that the Appellant has been victimised on account of the fact that she had refused to sign the cheques for the fear of the funds being misused.

5. So far as the contention that she is undergoing treatment at Bareilly, it may be mentioned here that the Appellant may be entitled for availing medical leave in accordance with the Rules and she should have applied for that leave. Merely because, the Appellant is undergoing treatment can not be ground for assailing the order of transfer.

6. So far as the contention that she is being victimised for not signing the cheques on the apprehension of the funds being misused is concerned, we may mention here that the action of the Appellant in not signing the cheques has resulted in stalemate and to see that the working does not suffer, it was necessary to transfer the Appellant. Further, It was in the interest of the Appellant that she should work at any other Primary Health Centre except Kuwandanda. That being the position, we are of the considered opinion that the order of the learned single Judge does not suffer from any legal infirmity.

7. The special appeal fails and is dismissed.