

(2011) 12 AHC CK 0091
In the Allahabad High Court
Case No : Service Single No. 8645 of 2011

Vijay Prakash

APPELLANT

Vs

Managing Director U.P. Cooperative Federation Lko. and
Others

RESPONDENT

Date of Decision : 05-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0091

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon''ble Anil Kumar, J.—Heard learned counsel for the parties and perused the record.

2. By means of the present writ petition, the order of transfer dated 14.11.2011 (Annexure no.1) passed by opposite party no.1 is under challenge. Learned counsel for the petitioner while challenging the impugned order submits that the same is in contravention to transfer policy dated 14.5.2011 issued by the State Government.

3. From the perusal of the record, it is not in dispute that the petitioner is holding transferable post.

4. The law is well settled that transfer being exigency of service can be effected by the employer concerned in accordance with administrative exigency, in the interest of administration and public interest at any point of time and that cannot be monitored and guided by this Court unless it may be shown that transfer order is vitiated on account of the contravention of the statute, or lacks jurisdiction or mala fide.

5. In the present case as argued by learned counsel for petitioner that the impugned order of transfer is in violation of transfer policy is not correct because

in the case of Union of India and Others Vs. S.L. Abbas, Hon''ble Apex Court has held as under :-

The said guideline, however, does not confer upon the Government employee a legally enforceable right.

6. The said view has been reiterated by Hon''ble Supreme Court in the case of Rajendra Roy Vs. Union of India (UOI) and Another, wherein the Apex Court has held as under:

It is true that the order of transfer often causes a lot of difficulties and dislocation in the family set up of the concerned employees but on that score the Oder of transfer is not liable to be struck down. Unless such order is passed mala fide or in violation of the rules of service and guidelines for transfer without any proper justification the Court and the Tribunal should not interfere with the order of transfer.

7. In the case of Bank of India Vs. Jagjit Singh Mehta, the Hon''ble Supreme Court has held as under:

The said observations in fact tend to negative the respondent''s contentions instead of supporting them. The judgment also does not support the Respondent''s contention that if such an order is questioned in a Court or the Tribunal, the authority is obliged to justify the transfer by adducing the reasons therefore. It does not also say that the Court or Tribunal can quash the order of transfer, if any of the administrative instructions/ guidelines are not followed, much less can be characterized as mala fide for that reason. To reiterate, the oder of transfer can be question in a Court or Tribunal only where it is passed mala fide or where it is made in violation of the statutory provisions.

8. The said view was again reiterated by Hon''ble Supreme Court in the case of National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and others,

9. No other points have been argued or pressed by the learned counsel for the petitioner.

10. In view of the above said facts, I do not find any merit in the writ petition. It is accordingly dismissed.

11. However, the petitioner if so advised may make a representation for redressal of his grievances within a period of two weeks from today and after receiving the same, the opposite party no. 1 may consider and dispose of the same expeditiously by speaking and reasoned order in accordance with law.

12. No order as to costs.