

Court No. - 46

Case :- SPECIAL APPEAL No. - 677 of 2023

Appellant :- Amit Narayan Rai And Another

Respondent :- State Of U.P. And 20 Others

Counsel for Appellant :- Kartikeya Saran, Srishti Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

This intra-court appeal is directed against an order passed by learned Single Judge dated 23.01.2023, whereby learned Single Judge has refused to interfere with the order of transfer passed against the petitioner-appellant. The main ground of challenge to the order of transfer is that the petitioner happens to be an office-bearer of the Union of Ministerial Employees of U.P. Medical and Public Health Ministerial Association and by virtue of the policy then applicable, he could not have been transferred for a period of two years. The policy, otherwise, contemplated that the transfer could not have been effected without the prior permission of the District Magistrate. It was also asserted that no permission was, otherwise, obtained from the District Magistrate.

Learned Single Judge has negatived the claim of the applicant after returning a finding that there was no mala-fide alleged or established against the order of transfer. It has also been opined that the transfer policy is at best in the nature of a guideline, which cannot be treated to be a statute violation whereof would require an interference by the Writ Court. Learned Single Judge has also taken note of the fact that the petitioner was posted at the same place for the last 20 years and as requirement of an employee at a

particular place of work, is required to be assessed by the authorities of the State, who have found the transfer to be necessitated on account of an administrative exigency, the learned Single Judge has declined to interfere in the matter.

Sri Kartikeya Saran, for the appellant submits that once the policy contemplated that an office-bearer would not be transferred for a period of two years, it was not open for the State to effect such transfer in the teeth of the policy.

Learned State Counsel, on the other hand, submits that the period of two years has already expired as on date. The order of learned Single judge is, otherwise, defended by the State for the reasons recorded therein.

We have heard learned counsel for the parties and have perused the materials on record. It remains undisputed that petitioner holds a transferable post and transfer is an incidence of service. It is also apparent that the petitioner-appellant has remained posted for over 20 years at the same place. It has, otherwise, not been specifically asserted as to for how long the appellant has been an office-bearer of the Union. Upon consideration of the materials placed on record, as also the fact that petitioner has remained posted for more than 20 years, we find no illegality in the view taken by the learned Single Judge in refusing to interfere with the order of transfer, the appeal lacks merits and is **dismissed**.

Order Date :- 16.12.2023

SP/-