

Court No. - 35

Case :- WRIT - A No. - 15053 of 2023

Petitioner :- Abhay Kumar Chaubey

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Kartikeya Saran,Ujjawal Satsangi

Counsel for Respondent :- CSC

Hon'ble Vikas Budhwar,J.

Counter affidavit filed today is taken on record.

Heard Sri Ujjawal Satsangi, learned counsel for the writ petitioner as well as Sri Shailendra Singh, learned Standing Counsel, who appears for the respondent nos.1 to 4 and 6.

In view of the order, which is being proposed to be passed, notices are not being issued to the fifth respondent.

The case of the writ petitioner is that he while posted as Head Assistant in Government Industrial Training Institute, Bareilly, third respondent was transferred on 30.06.2023 as a Head Assistant in Bambrala, Sambhal on public interest. A communication is stated to have been issued on 02.07.2023 by the Principal of the Government Industrial Training Institute, Sambhal addressed to the second respondent, Director, Directorate of Training and Employment, Rozgar Bhawan, Guru Govind Singh Road, Lucknow, whereby the institution where at the writ petitioner has been transferred showed its inability to accommodate the writ petitioner on the premise that there was no sanctioned post therein.

According to the writ petitioner, thereafter the sixth respondent, Deputy Director (Training and Apprentice), Lucknow proceeded to pass an order dated 28.07.2023, whereby the parent transfer order dated 30.06.2023 was modified to the extent that now the writ petitioner has been transferred to fourth respondent, Government Industrial Training Institute, Chandausi, Sambhal, in pursuance of the directions of the second respondent, Director, Directorate of Training and Employment, Rozgar Bhawan, Guru Govind Singh Road, Lucknow dated 20.07.2023.

Learned counsel for the writ petitioner has invited the attention of the Court towards page no.67 of the paper book, so as to contend that there happens to be a communication by the Joint

Secretary, Uttar Pradesh Sashan addressed to the second respondent, Director, Directorate of Training and Employment, Rozgar Bhawan, Guru Govind Singh Road, Lucknow dated 20.07.2023, whereby in respect of alteration of a transfer order, approval of the State Government is required. He thus submits that in the present case, approval is of the Director and not State the Government and according to him, there has been no delegation of powers in that regard.

Prayer in the present petition is for quashing of the order dated 28.07.2023.

Sri Shailendra Singh, learned Standing Counsel on the matter being taken up today has produced before this Court a counter affidavit filed on behalf of the respondent nos.1 to 6 sworn by the Principal of Government Industrial Training Institute, Bareilly, while referring to paragraph nos.4 and 6 has contended to the extent that the writ petitioner had been working in Government Industrial Training Institute, C.B. Ganj, Bareilly, since 17 years and on the basis of the recommendation of the Joint Director, the transfer order has been passed. According to him, the writ petitioner cannot resist the transfer.

Learned Standing Counsel further submits that the issues which the writ petitioner is raising needs determination at the instance of the second respondent, Director, Directorate of Training and Employment, Rozgar Bhawan, Guru Govind Singh Road, Lucknow and the writ petitioner may represent his cause before the second respondent.

To such a submission, learned counsel for the writ petitioner has no objection.

Considering the submission of the rival parties as well as the stand taken by them, the writ petition is being disposed of granting liberty to the writ petitioner to prefer a comprehensive representation before the second respondent by 17.10.2023 and on the receipt of the same, the second respondent shall decide the same by 30.10.2023, while passing an order meeting out all the contentions raised by the writ petitioner.

With the aforesaid observations, the writ petition stands ***disposed off.***

Order Date :- 12.10.2023

S Rawat