

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 7571 of 2023

Applicant :- Anshu

Opposite Party :- Pratap Singh Beghel, Presently Postd As Secretry

Counsel for Applicant :- Kamlakar Pal, Sakshi Srivastava

Hon'ble Rohit Ranjan Agarwal, J.

1. Heard Sri Yatindra, learned counsel appearing on behalf of the opposite party.
2. The writ Court on 16.12.2022 while disposing of Writ-A No. 21111 of 2022 passed the following order:-

"Heard Shri Sushil Kumar Pal, counsel for the petitioner, learned Standing Counsel for the State-respondent and Shri Shresth Pratap Singh under the authority of Mrs. Archana Singh, learned counsel for respondent Nos.3 & 4.

By means of this writ petition, petitioner has prayed for issuance of a writ of mandamus directing the respondent No. 3 to transfer the petitioner from District Sonbhadra to District Shamali or Saharanpur as Assistant Teacher.

Counsel for the petitioner submits that petitioner's husband is working in Private Sector in Noida away from his parental house in District Shamli. The husband of the petitioner is only son of his parents. Petitioner has two minor daughters who are studying in District Shamli. Petitioner's mother-in-law is old lady suffering from severe paralysis and is undergoing treatment.

Learned counsel for the petitioner submits that in regard to inter district transfer petitioner has moved a representation on 30.9.2022 before the Secretary, Basic Education Board, Prayagraj, but the same is still pending.

Learned counsel for the petitioner relies upon Rule 8(2)(d) of the Uttar Pradesh Basic Education (Teachers)(Posting) Rules, 2008 [in short 'the Rules, 2008'] which permits such inter-district transfers of women teachers in special circumstances at the place of residence of their husband or in-law's, which reads as under:-

"8(2)(d) In normal circumstances the applications for inter-district transfers in respect of male and female teachers will not be entertained within five years of their posting. But under special circumstances, applications for inter-district transfers in respect of female teachers would be entertained to the place of residence of their husband or in law's district."

Learned counsels for respondents submit that no policy has been framed by the Government as yet in this regard.

The contention is misconceived. The implementation of the provision in Rule-8(2)(d)

is not dependent upon framing of any policy. This is not to say that the concerned cannot frame a policy but to say that if the Government does not frame any policy, it does not mean that Rule-8(2)(d) of the Rules, 2008 can't be given effect. The Rules have been made under the Basic Education Act, 1972. There is nothing in the Rules to suggest that any policy is required to be framed under Rule-8(2)(d) of the Rules, 2008 and only then such transfers can be made. The transferring authority, as informed by learned counsels for the respondents, is the Secretary, Basic Education Board because it is an inter-district transfer.

In view of the aforesaid, let respondent No. 3 to consider the request of the petitioner for transfer from District Sonbhadra to District Shamali or Saharanpur keeping in mind the facts of the case and the object sought to be achieved by Rule-8 (2) (d) of the Rules, 2008, expeditiously, preferably at the end of the academic session. The application shall not be rejected on the ground that there is no policy framed in this regard for the reasons already mentioned hereinabove.

With these observations/ directions, the writ petition is disposed of."

3. Today, a compliance affidavit has been filed on behalf of opposite party wherein it has been stated that the order of the Writ Court has been complied with and the representation of the applicant has been decided on 02.12.2023. Copy of which has been brought on record as Annexure-1 to compliance affidavit.

4. In view of said fact, as the order of writ Court has been complied with, the contempt application is rendered infructuous and the same stands dismissed.

5. Contempt notice stands discharged.

Order Date :- 5.12.2023

Shiraz