

Court No. - 33

Case :- WRIT - A No. - 17744 of 2023

Petitioner :- Jagesh Kumar

Respondent :- State of U.P. and others

Counsel for Petitioner :- Pranesh Kumar Mishra

Counsel for Respondent :- C.S.C., Abhishek
Srivastava, Shivam Yadav

Hon'ble J.J. Munir, J.

Heard Mr. Pranesh Kumar Mishra, learned Counsel for the petitioner, Mr. Abhishek Yadav, learned Counsel for respondent Nos. 2 and 3, and Mr. Shivam Yadav, learned Counsel for respondent Nos. 4 and 5.

2. In compliance with the earlier order dated 19.10.2023 and subsequent order dated 20.11.2019, Mr. Abhishek Srivastava, Advocate has produced before this Court instructions from the Chief Engineer (Hydel), Uttar Pradesh Power Corporation Limited, Lucknow, signed by himself.

3. This petition has been filed, seeking issue of a *mandamus*, directing the Managing Director, Uttar Pradesh Power Corporation Limited, Lucknow and the Chief Engineer (Hydel) Uttar Pradesh Power Corporation Limited, Lucknow to consider the case of the petitioner's for a transfer from his present place of posting *id est* Electricity Test Division, District Bareilly to the Electricity Distribution Division, Garhmukteshwar, Hapur, because of his ailing mother, who needs him by her side.

4. This Court *vide* order dated 19.10.2023 asked Mr. Abhishek Srivastava to take instructions. The instructions that Mr. Srivastava has received from the Chief Engineer (Hydel), Uttar Pradesh Power Corporation Limited, Lucknow show that in cases where the husband and wife are both employees in

government service or corporation service, there is a policy about posting them in the same district or city, as far as possible, but not in any other case.

5. The decision where an employee is to be posted or where a posted employee would be transferred is a matter within the domain of the employer's primary decision making. There is no scope for this Court to interfere with an order of transfer or a matter where an employee wants a particular posting, unless there be a case about a transfer from the existing posting to another made contrary to statutory rules, or the result of a patently *mala fide* action, which can be demonstrated. There is no case of this kind obtaining here.

6. In the circumstances, no case for interference with the impugned order is made out.

7. In the result, this writ petition **fails** and shall stand **dismissed**.

8. There shall be no order as to costs.

Order Date :- 29.11.2023

I. Batabyal

(J.J. Munir, J.)