

Court No. - 40

Case :- WRIT - C No. - 37633 of 2023

Petitioner :- Anil Kumar Yadav

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Shivam Shukla, Vinod Kumar

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Sri Fuzail Ahmad Ansari, learned Standing Counsel for the State-respondents.

2. The present writ petition has been preferred seeking inter alia following reliefs:-

"(i) a writ, order or direction in the nature of mandamus, commanding and directing the respondent no.1 to ensure conclusion of the investigation and initiation of appropriate legal action on the basis of the investigation report, within a stipulated period as prescribed by this Hon'ble Court in accordance with law.

(ii) a writ, order or direction in the nature of mandamus commanding and directing the respondent no.1 to initiate disciplinary proceedings against officers being member of the investigation committee did not conclude the investigation within the stipulated period of 15 days and allowed 15 months to pass without submitting any report, within stipulated period as prescribed by this Hon'ble court in accordance with law."

3. In pith and substance, the petitioner claims to be Assistant Audit Officer posted at Meerut since July 2017. It is complained before us that the department in most arbitrary manner had transferred the employees without any adherence to the transfer policy of 2022-2023. Even some employees are sticking to their place of posting for more than two decades. Therefore, a direction may be issued to the respondents to entertain the complaint filed by the petitioner.

4. Sri Ansari, learned Standing Counsel opposed the said relief and submitted that the employees of Cooperative Society hold the transferable post. Hon'ble Apex Court has consistently held that transfer order should not be generally interfered with, unless the same is in violation of statutory provisions or the order passed is malafide. The question as to whether the transfer was in the interest of public service would essentially require factual adjudication and invariably depend upon

peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee, appointed to the class or category of transferable post from one place to other, is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be the outcome of malafide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts normally cannot interfere with such order as the matter of routine. The petitioner have no locus being an employee of the Cooperative Society and cannot be permitted to agitate regarding any arbitrariness in the transfer order without citing any exemplar in the matter. Moreover, the petitioner's status is only of complainant and by no stretch of imagination being an employee, he is prejudiced with the other transfers. The present writ petition is dealing with malafide intent just to tarnish the image of the department and that too without any locus. The writ petition is devoid of merits and the same is liable to be dismissed with exemplary cost.

5. Considering the facts and circumstances and the objections so raised by learned Standing Counsel, we have occasion to peruse the record in question and we do not find any good ground to entertain the writ petition. The writ petition being devoid of merits is hereby dismissed.

Order Date :- 1.11.2023
Manish Himwan