

Court No. - 34

Case :- WRIT - A No. - 20131 of 2023

Petitioner :- Subodh Kumar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Kailash Prakash Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard Sri Kailash Prakash Pandey, learned counsel for the petitioner and learned Standing Counsel for the State.

2. Petitioner is aggrieved by the transfer order dated 18.06.2023 basically on the ground that it is sought to be enforced almost on completion of six months period and for no justifiable reason such a transfer order is now sought to be implemented at such a belated stage.

3. It is submitted by learned counsel for the petitioner that in a case where the petitioner has been made to continue for more than five months even after the transfer order, he may be permitted to stay back for next six months also till the new transfer policy is enforced. He submitted that this late enforcement of the transfer adversely affects as children would be continued to pursue their studies in school where employees are held back on account of such transfer order not being enforced in time.

4. Learned counsel for the petitioner has relied upon various orders of this Court from time to time interfering with such implementation of transfer order after such long delay with the liberty to the respondents to pass further transfer orders.

5. The order in this regard passed in Writ A No.19531 of 2023, 5501 of 2023, 18366 of 2022, 50 of 2022, 6500 of 2020, 4492 of 2020 and 10292 of 2020 and likewise all the previous orders have been relied upon by learned counsel for the petitioner. The latest order is of 15.11.2023 passed by the Court in Writ A No.18366 of 2022 in which the Court has interfered with the transfer order dated 20.05.2022 which was sought to be enforced by passing relieving order dated 27.10.2022.

6. Learned Standing Counsel on the contrary submits that the earlier orders that have been placed before the Court relate to Covid period where the order could not have been implemented but even subsequently, as he submits, there has been delay in passing relieving order on account of the

fact that these transfers relate to a discipline police force and it takes time in making necessary adjustments of Constables and other police personnel and, therefore, the Court may not be interfering in such matter of relieving even if they take place after substantial delay.

7. Having heard learned counsel for the respective parties, I do not see any justification in holding back the transferee for more than 30 days for the simple reason that if the transfer is between the months of March and June of year and the relieving is not done within one week or so and a Constable or otherwise a police personnel is permitted to stay back, he will get his children obviously admitted in same school for the next academic session and this would adversely affect him in the event he is relieved thereafter in 2-3 months' time.

8. It is therefore, necessary to direct the Direct General of Police to ensure that whenever the police establishment proceeds to pass transfer orders, it must ensure that the relieving order is passed within the next 30 days' time in all circumstances and not beyond. However, in special cases like medical emergency or personal request of transferee due to his serious personal problems, it may require relieving to be further delayed, it will remain open for the authority to delay the relieving order but for a reasonable period but in all such cases an undertaking should be taken from such person concerned that as relieving was being delayed for his/ her request, so that he/she would have to join at the transferred place as and when he/she is relieved whether it is mid academic session or not. Thus relieving should be delayed at police personnel's own risk if he/she makes request for holding back relieving.

9. I may reiterate that under no circumstances in cases of general transfer orders the relieving order should be delayed for more than thirty days.

10. Looking to the facts and circumstances of the case and the observations made hereinabove, the transfer order dated 18.06.2023 as well as the relieving order dated 20.11.2023 is put in abeyance to abide by the order to be passed by the authority hopefully in the next session i.e. March to June, 2023.

11. With aforesaid observations and directions, this writ petition is ***disposed of***.

Order Date :- 5.12.2023

Deepika