

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 212 of 2023

Appellant :- Hukum Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue U.P. Civil Secret. Lko. And Others

Counsel for Appellant :- Alok Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Rajan Roy,J.

1. Heard Sri Alok Mishra, learned counsel for the appellant and Sri Sanjay Sarin, learned Additional Chief Standing Counsel for the State.

2. By means of this appeal, the appellant has challenged the judgment dated 20.04.2023 rendered in Writ-A No.5527 of 2022 (Hukum Singh Vs. State of U.P. and Others) by which the appellant's petition has been dismissed and an interim order which was operating has been vacated.

3. A writ petition had been filed by the appellant under Article 226 of the Constitution of India challenging an order dated 26.07.2022 passed by the Settlement Officer of Consolidation, Rampur (hereinafter referred as SOC), whereby he had cancelled his earlier order dated 25.09.1997 regarding change of residential address of the petitioner from Village Saijani Nankar, Post, Police Station and District Rampur to Village Rafatpur, Post and District Moradabad.

4. The petition of the appellant has been dismissed only on the ground that as per the relevant Government Order / Rules, such change in the residential address of an employee was permissible only once in service period of an employee that too in exceptional circumstances and it was the Government which could authorize the change of residential address whereas in this case, the change brought about vide order dated 25.09.1997, was by an order of SOC. There is a finding in the order of the Writ Court that the petitioner's counsel could not show any provision under which the SOC has the power to change the residential address. The Writ Court found that this power was vested only in the Government and it had to be exercised in exceptional circumstances that too once in the entire service period. The writ court has further observed that petitioner by getting his residential address changed from

Saijani Nankar, Post, Police Station and District Rampur to Village Rafatpur, Post and District Moradabad, continued on his post in most of the time of his service, and when a complaint in this regard was made, an inquiry was conducted wherein it was found that the residential address of the petitioner was wrongly changed by the SOC without any power inasmuch as the power vests only in the Government.

5. We have perused the Para 31 of Manual of Orders, 1989 Edition containing relevant Government Orders with regard to change of home town as referable to Rule 81-B of Financial Handbook Volume-III, Traveling Allowance Rules, according to which a declaration of home town once made shall ordinarily be treated as final but in exceptional circumstances, Government in the administrative department may authorize a change with such declaration, provided that such a change shall not be made more than once during the service of the Government servant. Certain other conditions have also been laid down in para 31 of Manual of Orders, 1989 Edition, copy of which is annexed as annexure 18, veracity of which has not been doubted by Sri Sanjay Sarin, learned counsel for the State.

6. In view of the above, we do not find any error in the judgment of the Writ Court when it says that the SOC, who had passed the order in the year 1997 did not have jurisdiction and therefore the subsequent order correcting the error did not require interference, however, at this stage counsel for the appellant contended that if State Government is the authority competent, then the appellant may be relegated before the State Government uninfluenced by any observation made by the Writ Court or in the order impugned before the Writ Court.

7. We have perused the order dated 26.07.2022, which was impugned before the Writ Court and find that it recalls the earlier order dated 25.09.1997 on the ground that if any change in home address had to be applied for by the petitioner, the same had to be done through proper channel to the State Government and as the SOC did not have power to make such change he has cancelled the earlier order dated 25.09.1997.

8. Having considered the submissions of counsel for the parties and learned Standing Counsel for the State who has no objection if the appellant is relegated before the State Government for the change in his address, we dispose of this appeal with partial modification in the judgment of the Writ Court by providing that uninfluenced by the observation made therein as also in the order dated 26.07.2022 passed by the SOC, the appellant if he has a cause, may approach his administrative department in the State Government through

proper channel seeking a change in his home address and if there is no other legal impediment in this regard, the competent authority in the State Government may consider and take a decision in this regard within a period of three months. The order of learned Single Judge is modified accordingly and the writ petition preferred by the appellant and also this Special Appeal stands **disposed of** in the aforesaid terms.

Order Date :- 15.5.2023

Saurabh

(Rajan Roy,J.) (Pritinker Diwaker,C.J.)