

**Court No. - 20**

**Case :-** WRIT - A No. - 8033 of 2023

**Petitioner :-** Tushar Krishna Singh

**Respondent :-** State Of U.P. Thru. Prin. Secy. Revenue Lko. And 4 Others

**Counsel for Petitioner :-** Akhilesh Kumar Kalra, Ajay Tiwari, Jai Shrinet

**Counsel for Respondent :-** C.S.C.

**Hon'ble Manish Mathur, J.**

1. Heard learned counsel for petitioner, learned State Counsel for opposite parties 1 to 4. In view of order being passed notices to opposite party no.5 stand dispensed with.

2. Petition has been filed challenging transfer order dated 30.06.2023 whereby petitioner has been transferred from District Lucknow to Sitapur on post of Lekhpal on administrative grounds. Also under challenge is order dated 04.09.2023 whereby petitioner's representation has been rejected.

3. It has been submitted that earlier petitioner had challenged transfer order by means of WRIT - A No. - 6256 of 2023 which was disposed of vide order dated 23.08.2023 directing the authority concerned to decide petitioner's representation. It has been submitted that by means of impugned order dated 04.09.2023, petitioner's representation has been rejected only on basis of a report submitted by District Magistrate dated 29.08.2023. It is also submitted that in paragraph 2 of impugned order, submissions of petitioner that transfer order is in violation of Rule 24 of U.P. Lekhpal Service IIIrd Amendment) Rules, 2015 has been indicated but not considered.

4. Learned State Counsel has however, refuted submissions advanced by learned counsel for petitioner with submission that impugned order has considered all the aspects raised by

petitioner in his representation and has upheld the transfer order on the basis of report dated 29.08.2023 submitted by District Magistrate whereby work and conduct of petitioner was found to be unsatisfactory.

5. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, particularly the impugned order, it is quite evident that not only in order dated 23.08.2023 passed previously by this Court but also in petitioner's representation dated 28.08.2023, the aspect of transfer order infringing the relevant Rules of 2015 has specifically been taken. Although impugned order in paragraph-2 clearly indicates such a ground having been taken by petitioner but does not advert or deal with any such submissions. The impugned order has clearly been passed only on the basis of report submitted by District Magistrate on 29.08.2023.

6. Once, this Court as well as petitioner in his representation has clearly indicated violation of Rules with regard to impugned transfer order, it was incumbent upon the authority concerned to have considered and decided such objections which were taken by petitioner particularly since they pertained to violation of statutory rules. The impugned order having not adverted to aforesaid submissions of petitioner, is clearly vitiated. Consequently, the impugned order dated 04.09.2023 is quashed by issuance of a writ in the nature of Certiorari granting liberty to opposite party no.2, i.e. Divisional Commissioner, Lucknow Division, Lucknow to pass fresh orders taking into consideration the submissions raised by petitioner in his representation dated 28.08.2023 and to deal with the same. Fresh orders on petitioner's representation shall be passed within a period of ten days' from the date a certified

copy of this order is produced before concerned authority. It is also provided that till decision on petitioner's representation, he shall not be compelled to join at the transferred place in case he has already not joined.

7. Resultantly, the petition succeeds and is **allowed** at the admission stage itself. There shall be no order as to costs.

**Order Date :-** 16.10.2023

kvg/-