Court No. - 20

Case :- WRIT - A No. - 8199 of 2023

Petitioner :- Abhishek Kumar And Another
Respondent :- State Of U.P. Thru. Prin. Secy. Medical Health And Family Welfare Lko. And 4 Others
Counsel for Petitioner :- Mohd. Islam Khan,Farooq Ayoob
Counsel for Respondent :- C.S.C.,Puneet Chandra

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioners, learned State Counsel appearing on behalf of opposite parties no.1 & 3 to 5 and Mr. Puneet Chandra, learned counsel appearing for opposite party no.2.

2. Petition has been filed challenging transfer orders dated 04.05.2022 and 09.05.2022 passed by Chief Medical Officer, Barabanki with further prayer being made for a direction to opposite parties to permit petitioners to join their previous place of posting from where they have been transferred.

3. Learned counsel for petitioners submits that the petitioners have been engaged on a contractual basis under the terms of contract as well as circular dated 22.08.2017 which specifically provides that Health Workers working on contract basis in the National Health Mission Scheme shall not be transferred to any other place. It is also submitted that there is no power vested under the contract or circular to transfer contractual employee working under the National Health Mission Scheme.

4. Learned counsel submits that the aforesaid controversy has already been decided by Coordinate Bench of this Court in Yogesh Kumar & others v. State of U.P. through The Principal Secretary, Medical Health and Family Welfare, Lucknow & others passed in Writ A No.4700 of 2023 and Shishir Kumar Srivastava v. State of U.P. & Ors passed in Writ A No.4896 of 2023 by means of orders dated 10.07.2023 and 12.07.2023 respectively which covers the issue.

5. Learned counsel appearing on behalf of opposite parties do not dispute the aforesaid facts.

6. In view of aforesaid statement given by learned

counsel for opposite parties, petitioners being placed in a similar situation are therefore entitled to the benefit of the aforesaid judgments.

7. Consequently, a writ in the nature of Certiorari is issued quashing transfer orders dated 04.05.2022 and 09.05.2022 issued by Chief Medical Officer, Barabanki at the admission stage itself.

8. Resultantly, petition succeeds and is allowed at the admission stage itself. Parties to bear their own costs.

Order Date :- 19.10.2023
kvg/-

Digitally signed by :-
GIREESAN KV
High Court of Judicature at Allahabad,
Lucknow Bench