

Court No. - 20

Case :- WRIT - A No. - 8969 of 2023

Petitioner :- Vijay Kumar Srivastava

Respondent :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy. Deptt. Of Forest, Lucknow And 2 Others

Counsel for Petitioner :- Avadhesh Mishra, Santosh Kumar Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

Heard.

On 20th November, 2023 following order had been passed:-

1. Heard learned counsel for petitioner and learned State Counsel for opposite parties.

2. Petition has been filed challenging petitioner's transfer order dated 14.07.2021 whereby he was transferred from District Ambedkar Nagar to District Amethi.

3. It is submitted that aforesaid transfer order has not been effected till date since petitioner was never relieved in pursuance thereof and now cannot be compelled to join after passing of more than two years since exigencies of service becomes redundant.

4. Also under challenge is order dated 30.09.2023 whereby petitioner has been directed to hand over charge of post of Senior Assistant to one Mr. Om Prakash Srivastava who has been posted in District Ambedkar Nagar from Amethi.

5. It appears that petitioner has been continuing in District Ambedkar Nagar even after passing of transfer order dated 14.07.2021 and was directed to look after functions of higher post of Senior Assistant but with posting of other person on that post, petitioner has been directed to hand over the charge.

6. In such view of matter, petitioner cannot have any grievance with regard to impugned order dated 30.09.2023.

7. However, so far as order dated 14.07.2021 is concerned, learned State Counsel is granted ten days' time to seek instructions.

8. List this case on 01.12.2023, as fresh."

In pursuance thereof, learned State Counsel has been provided written instructions dated 30th November, 2023, a copy of which is taken on record in which it has been stated that by means of order dated 30th September, 2023 petitioner has been directed to hand over charge and to report to his place of transfer in pursuance of the transfer order dated 14th July, 2021.

It is therefore quite evident that now petitioner has been sought to be relieved in pursuance of transfer order which was passed more than two years ago although transfer is an exigency of service but the exigency becomes infructuous in case an employee is not relieved immediately within stipulated time period to report to his place of transfer. The aforesaid aspect has already been considered by Division Bench of this Court in the case of Smt. Abha Rajput & others versus State of U.P. and others passed in Special Appeal No. 451 of 2021 wherein also transfer order having been effected two years prior to relieving of petitioner therein was quashed on the very same grounds.

This Court is in perfect agreement with the aforesaid judgment which is squarely applicable in the facts and circumstances of the case.

Accordingly the transfer order dated 14th July, 2021 and the relieving order passed in pursuance thereof dated 30th September, 2023 is hereby quashed by issuance a writ in the nature of Certiorari granting liberty to opposite parties to pass fresh orders pertaining to transfer of petitioner in case required at the time of annual transfers.

Consequently the petition succeeds and is allowed. Parties to bear their own cost.

Order Date :- 1.12.2023
prabhat