



2025:UHC:11428

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/ S) No. 224 of 2025

Suresh Ram

... Petitioner

Versus

State of Uttarakhand & Others

... Respondents

With

Writ Petition (S/ S) No. 1220 of 2024

Writ Petition (S/ S) No. 1193 of 2024

Writ Petition (S/ S) No. 1197 of 2024

Writ Petition (S/ S) No. 1207 of 2024

Writ Petition (S/ S) No. 1217 of 2024

Writ Petition (S/ S) No. 1225 of 2024

Writ Petition (S/ S) No. 1231 of 2024

Writ Petition (S/ S) No. 1252 of 2024

Writ Petition (S/ S) No. 1273 of 2024

Writ Petition (S/ S) No. 1275 of 2024

Writ Petition (S/ S) No. 1277 of 2024

Writ Petition (S/ S) No. 1364 of 2024

Writ Petition (S/ S) No. 1366 of 2024

Writ Petition (S/ S) No. 1373 of 2024

Writ Petition (S/ S) No. 226 of 2025

Writ Petition (S/ S) No. 227 of 2025

Writ Petition (S/ S) No. 231 of 2025

Writ Petition (S/ S) No. 254 of 2025

Writ Petition (S/ S) No. 255 of 2025

Writ Petition (S/ S) No. 256 of 2025

Writ Petition (S/ S) No. 261 of 2025

Writ Petition (S/ S) No. 263 of 2025

Writ Petition (S/ S) No. 264 of 2025

Writ Petition (S/ S) No. 267 of 2025

Writ Petition (S/ S) No. 268 of 2025

Writ Petition (S/ S) No. 269 of 2025

Mr. Vinay Kumar, Mr. Sandeep Tiwari, Mr. R.C. Tamta, Mr. Shubhang Dobhal, Mr. Yogesh Pandey, Mr. Digvijay Singh Bisht and Ms. Anannya Jain (proxy counsel for Mr. Sandeep Kothari), Counsel for the petitioners.

Mr. Narayan Datt, Standing Counsel, for the State.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.

Since common questions of fact and law are involved in these petitions, therefore, they are clubbed together and are being heard & decided by a common



judgment. However, for the sake of brevity, facts of Writ Petition (S/S) No. 224 of 2025 alone are being considered and discussed.

2. Petitioners were appointed as Village Panchayat Development Officer in Panchayati Raj Department. Village Panchayat Development Officer is a district cadre post, appointing authority whereof is District Panchayati Raj Officer and they are not transferable outside the district in which they are appointed. Petitioners were transferred, on their request, from one district to another by separate orders, passed by Secretary, Panchayati Raj in the month of November, 2023. Transfer orders passed by Secretary, Panchayati Raj were cancelled by Director, Panchayati Raj by a common order dated 3.7.2024. Petitioners challenged the cancellation orders by filing writ petitions. The main ground of challenge was that since the order of transfer was passed by Secretary, therefore, Director, Panchayati Raj, who is subordinate to Secretary cannot cancel the order passed by his superior authority. Interim orders were passed in the writ petitions filed by petitioners challenging Director's order and on the strength of those interim orders, petitioners continued to serve at the places where they were transferred. During pendency of the writ petition, Secretary, Panchayati Raj passed another order on 21.2.2025, whereby the earlier orders of transfer, passed in November 2023, were cancelled. Petitioners thereafter filed another set of writ petitions challenging the order passed by the Secretary on 21.2.2025.



3. Learned Counsel for the petitioners contend that the order passed by Secretary on 21.2.2025 is in teeth of the interim orders passed in favour of petitioners in the earlier round of litigation. It is further contended that the Secretary, while cancelling earlier transfer orders, has not applied his mind independently, as he has relied solely on the opinion of the Director, Panchayati Raj and facts and circumstances of each case are also not considered. It is further contended that the Secretary has relied upon certain provisions of The Uttarakhand Annual Transfer For Public Servants Act, 2017 including Section 17(2)(e) and Section 27, which however are not attracted in the present case. Petitioners contend that since it is not a case of annual or routine transfer and petitioners were transferred outside their cadre, therefore, provisions of The Uttarakhand Annual Transfer For Public Servants Act, 2017 have no application to the case, thus, reliance on Section 17(2)(e) and Section 27 of the Act for supporting the cancellation orders, is misplaced.

4. Per contra, learned State Counsel submits that Village Panchayat Development Officers are member of district cadre post and their services are not transferable outside the district. He submits that persons, who were appointed in hill districts, were desperately seeking transfer to plain districts and because of repeated representations made by such persons, State Government had to issue instructions on 10.5.2023 asking the district level authorities not to forward request for change of cadre/transfer outside



the cadre, unless the case is covered by proviso to Section 17(2)(e) of The Uttarakhand Annual Transfer For Public Servants Act, 2017. He submits that Section 17(2)(e) of the Act permits cadre change/out of cadre transfer of an employee only in case of marriage between two employees or displacement of employee due to acquisition of properties for development projects/natural calamity. Learned State Counsel thus submits that since petitioners' case was not covered by proviso to Section 17(2)(e) of The Uttarakhand Annual Transfer For Public Servants Act, therefore, the orders of transfer passed in their favour by the then Secretary were legally unsustainable, therefore the competent authority was justified in cancelling the transfer orders.

5. State has placed reliance upon The Uttarakhand Annual Transfer for Public Servants Act, 2017 (Uttarakhand Act No. 01 of 2018). Section 6 of the said Act enumerates three kinds of annual transfer, which are as follows:-

- (a) Compulsory transfer from accessible area to remote area;
- (b) Compulsory transfer from remote area to accessible area; and
- (c) Transfer on the basis of request.

6. Careful perusal of Section 6 of the Annual Transfer Act would reveal that only three kinds of transfer, enumerated in Section 6 would qualify to be covered by the expression 'annual transfer'. Thus, under the said Act, a Government Servant, after completing prescribed length of service in accessible



area, may be transferred to a remote area or from remote area to a accessible area within the cadre, as per conditions of his service. Similarly, a Government servant serving in a state level cadre may be transferred on request from one district to another, as per conditions of his service. Section 6 do not contemplate cadre change/ out of cadre transfer of a Government servant.

7. Admittedly, petitioners were appointed as Village Panchayat Development Officer, which is a district cadre post and anyone appointed in one district is not liable to be transferred outside that district, as per the conditions of service applicable to him. Thus, the orders of transfer passed in respect of the petitioners were not as per the service conditions applicable to the post of Village Panchayat Development Officer. The transfer orders were passed by the State Government under its inherent powers, which are available to every employer. Although, proviso to Section 17 (2) (e) of the Transfer Act permits cadre change/out of cadre transfer, however, it is permissible only in case of (i) marriage between two employees; (ii) displacement of employee due to acquisition of properties for development projects; and (iii) displacement of employee due to natural calamity, and provides that the employee, who is permitted cadre change/ transfer out of cadre, shall be treated as junior most in the new cadre. Proviso to Section 17(2) (e) further provides that approval of the committee headed by Chief Secretary constituted under proviso to Section 27(1) of the Transfer Act would be necessary.



8. From the scheme of the Transfer Act, it is apparent that the Act deals with annual or routine transfers, which are permissible under the applicable Rules to government employees concerned. The only exception to this is Section 17(2) (e), which permits cadre change in three contingencies.

9. Since the case of the petitioners is not covered by the contingencies mentioned in proviso to Section 17 (2) (e) nor the transfers are referable to Section 6, therefore, this Court has no hesitation in holding that petitioners were transferred by the Secretary, Panchayati Raj, by exercising the inherent powers of the State Government, which are available to every employer. The Transfer Act, 2017 although covers the field, however, it does not take away the right available as employer to the State Government, of transferring a public servant in public interest or administrative exigency, out of his cadre. The Secretary, Panchayati Raj exercised that right on behalf of the State Government, therefore, the transfer orders passed by Secretary cannot be faulted only on the ground that they were passed *dehors* the provisions of Annual Transfer Act.

10. Having regard to the facts and circumstances of the case and also the provisions of the Transfer Act, 2017, this Court is of the considered opinion that provisions of Annual Transfer Act cannot be invoked for cancelling the transfer orders passed in respect of the petitioners, as the transfer orders were passed not under the power available in the Transfer Act, but



under the inherent powers available to the State Government.

11. Learned State Counsel also placed reliance upon Section 27(1) of the Transfer Act and submitted that without approval of the committee headed by the Chief Secretary, cadre change or out of cadre transfer, cannot be made. The said submission is bereft of merit. Proviso to Section 17(2) (e) permits cadre change only in three contingencies and the committee headed by Chief Secretary can grant approval for cadre change, only when any of the three contingencies mentioned in proviso to Section 17 (2) (e) is existing. Existence of one of the three contingencies is a condition precedent for exercise of power and the committee headed by the Chief Secretary also cannot grant approval for cadre change if that condition precedent is not fulfilled.

12. Having regard to the aforesaid legal position, this Court has no hesitation in holding that the orders of transfer passed in respect of the petitioners by the then Secretary cannot be termed as violative of provisions of Transfer Act. As discussed above, provisions of Annual Transfer Act are not attracted in case of cadre change/out of cadre transfer and the Transfer Act do not prohibit the State Government from transferring public servants outside the cadre under its inherent powers as employer.

13. This Court, however, finds substance in the submission made by learned State Counsel that



despite instructions issued by State Government on 10.05.2023, the proposal for transferring the Village Panchayat Development Officers from one district to another was not only entertained but allowed by Secretary, Panchayati Raj, which according to learned State Counsel is a serious matter and amounts to defiance of Government Policy. State Counsel further submits that due to these inter district transfers, acute shortage of Village Panchayat Development Officers is being faced in hill districts, as majority of them have gone on transfer to plain districts and the representation on the post given to reserved category persons in different districts has also become skewed; in some districts reservation in excess of prescribed quota is available to certain category persons, while in other districts reserved category candidates are not adequately represented. He submits that there are various other practical difficulties, which have arisen on account of inter district transfer of Village Panchayat Development Officers and if State is permitted to adopt remedial measures, it will lead to many more complications in future.

14. The orders of transfer passed by Secretary on request made by petitioners although cannot be legally faulted on the touchstone of Transfer Act, 2017, however, this Court finds substance in the submission made by learned State Counsel that the proposal for transfer should not have been entertained by the Secretary in the first place, in view of the directive issued by the State Government on 10.05.2023. The practical difficulties faced by the State Government



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due to large scale inter district transfer also cannot be lost sight of, as Village Panchayat Development Officers serve at the ground level and any discrepancy in their cadre is bound to adversely affect efficiency of administration.

15. In view of the aforesaid discussion, the writ petitions are allowed. The order dated 03.07.2024 passed by Director, Panchayati Raj and also the order dated 21.02.2025 passed by Secretary, Panchayati Raj are quashed and set aside. However, it shall be open to the Secretary, Panchayati Raj to re-visit the issue of inter district transfer of the petitioners and pass necessary orders to strengthen administrative efficiency in Panchayati Raj Department within three months, after providing reasonable opportunity of hearing to the petitioners.

(Manoj Kumar Tiwari, J.)
19.12.2025

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NAVEEN CHANDRA