

P.C. Pandey Vs. Director of Technical Education and anr.

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Court : Uttaranchal

Decided On : Nov-04-2003

Reported in : (2004)1UPLBEC19

Judge : Rajesh Tandan, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 1340 (S/S) of 2003

Appellant : P.C. Pandey

Respondent : Director of Technical Education and anr.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : S.S. Yadav, Adv.

Disposition : Petition dismissed

Judgement :

Rajesh Tandan, J.

1. Heard Sri S.S. Yadav, learned Counsel for the petitioner and learned Standing Counsel for the respondent Nos. 1 and 2.

2. By the present writ petition, the petitioner has challenged the order dated 20.9.2003 by which he has been transferred from Government Women Polytechnic, Dehradun to Government Polytechnic, Uttarkashi.
3. Brief facts are that the petitioner is posted at Government Women Polytechnic, Dehradun since 1993 as Instructor Stenography.
4. The grievance of the petitioner is that the transfer order although was passed on 19th June, 2003 but it came to the knowledge of the petitioner on 20.9.2003 in the mid of the session.
5. The petitioner has further stated that his wife's leg was fractured and she was on medical treatment and his daughter is studying in Intermediate.
6. Counsel for the petitioner has also stated that the petitioner has been transferred at Uttarkashi, which is a very sensitive place due to natural disaster.
7. So far as the transfer of the petitioner is concerned, the same having been made in the public interest. No interference is required under Article 226 of the [Constitution of India](#). The petitioner has referred the judgment of the Apex Court, that during the middle of the session, the petitioner, should not be transferred. The observations of the Apex Court are as follows :

The Apex Court in the case of Mrs. Shilpi Bose and Ors. v. State of Bihar and Ors., AIR 1991 Supreme Court 532, it has been held by the Apex Court that the Government Servant holding a transferable posts as no vested right at one place or the other. It has been further held that the transfer orders issued by the Competent Authority do not violate any of his legal rights. The observations of the Apex Court to that effect are quoted below :-- 'In our opinion, the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government Servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights. Even if a

transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the Higher Authorities in the Department. If the Courts continue to interfere with day-to-day transfer orders issued by the Government and its Subordinate Authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court over looked these aspect in interfering with the transfer orders.'

8. The Apex Court has observed that the party should approach the Higher Authorities in the Department. The petitioner has already made a representation, which has been mentioned. Authorities concerned shall consider the representation of the petitioner in accordance with the observations made above.

9. So far as the order of transfer is concerned, the same having been passed in the public interest, however, liberty is given to the petitioner to place his representation before the authorities who shall decide the same in view of the aforesaid observations.

10. Consequently, the writ petition is dismissed with a direction that the respondent shall decide the representation of the petition within a period of one month from today in the light of the observations made aforesaid. The transfer order shall remain in abeyance for a period of six weeks only.

11. There will be no order as to costs.

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