

Jay Deep Chaudhary and Others Vs State of U.P. and Others

Court: Allahabad High Court

Date of Decision: July 26, 2010

Hon'ble Judges: Anil Kumar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Anil Kumar, J.

Matter has been taken in revised cause list.

2. Heard Learned Counsel for the petitioner, Learned Standing Counsel for the opposite parties and perused the record.

3. By means of the present writ petition, the order of transfer dated 22.4.1997 (Annexure No. 3) passed by opposite party No. 3 is under

challenge.

4. From the perusal of the record, it does not dispute that the petitioner is holding transferable post .The law is well settled that transfer being

exigency of service can be effected by the employer concerned in accordance with its administrative exigency, in the interest of administration and

public interest at any point of time and that cannot be monitored and guided by this Court unless it may be shown that transfer order is vitiated on

account of the contravention of the statute , or lacks jurisdiction or mala fide as such in view of the judgment passed by the Hon"ble Supreme

Court in the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others, wherein Hon"ble Supreme Court has held as under:

In our opinion , the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the

transfer order is 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.

5. The aforesaid view has been reiterated by Hon"ble Supreme Court in the case of Union of India and another Vs. N.P. Thomas, and N.K. Singh

Vs. Union of India and others, holding therein if a person holding a transferable post, is transferred, there is no violation of any statutory/

mandatory rules then the same is not subject to judicial review. Further, in the case of Chief General Manager (Telecom), N.E. Telecom Circle and

another Vs. Rajendra Ch. Bhattacharjee and others, Hon"ble Supreme Court has held as under:

It is needless to emphasise that a government employee or any servant of a public undertaking has no legal right to insist for being posted at any

particular place. It cannot be disputed that the respondent holds a transferable post and unless specifically provided in his service conditions, he

was no choice in the matter of posting. Since the respondent has no legal or statutory right to claim his posting at Agartala, therefore, there was no

justification for the Tribunal to set aside the respondent"s transfer to Dimpur.

6. In view of the above said facts, I do not find any merit in the writ petition. It is accordingly dismissed.

7. No order as to costs.