

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 130 of 2005 (S/B)

Dinesh Pratap Singh
S/o Sri Badshah Singh,
presently posted as Assistant Director/
Drawing and Disbursing Officer
(Deputy Director),
Directorate Dairy Development
Department- Uttaranchal,
Mangal Parav, Haldwani
(Nainital)

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Petitioner

Versus

1. State of Uttaranchal through
Secretary, Uttaranchal Sashan
(Dairy Vikas Anubhag)
Civil Sachivalaya,
Dehradun.
2. Director, Dairy Development
Department-Uttaranchal
at Mangal Parav, Haldwani,
Nainital.
3. Smt. Damyanti Dohre, Director,
Dairy Development Department-Uttaranchal
at Mangal Parav, Haldwani,
Nainital.
4. Jaideep Arora s/o Sri J.L. Arora,
Assistant Director/ Incharge Director,
Dairy Development Department,
Raipur Road, Anchal Dairy Campus,
Dehradun

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Respondents

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Mr. P.S. Adhikari, Senior Advocate for the petitioner.

Mr. K.P. Upadhyaya, Standing Counsel for the State of Uttaranchal.

Coram: Hon. Cyriac Joseph, C.J.

Hon. J.C.S. Rawat, J.

JUDGMENT

CYRIAC JOSEPH, C.J. (ORAL)

1. The petitioner who is an Assistant Director in the Directorate of Dairy Development Department, Government of Uttaranchal has filed this writ petition challenging Annexure 9 order dated 29.06.2005 by which he was transferred from Haldwani to Tehri. According to the impugned order, the transfer was made on administrative grounds.

2. Respondents 2 and 3 have filed a counter affidavit justifying the transfer and denying the allegations of the petitioner. Having perused the averments in the counter affidavit and the complaints made against the petitioner by the third respondent through Annexure CA-3 letter dated 04.06.2005, we are inclined to accept the contention of the respondents that the transfer was made on administrative grounds. It is also to be noted that the transfer was made on the recommendation of the Transfer Committee. In such circumstances, it will not be just or proper for this Court to invoke its jurisdiction under Article 226 of the Constitution of India to interfere with the impugned transfer.

3. However, learned counsel for the petitioner pointed out that though the transfer was recommended by the Transfer Committee, the Chairman of the transfer Committee was none other than the third respondent who had sent the complaint to the Government against the petitioner. It is pointed out that one of the members of the Committee Sri Jaideep Arora (respondent no. 4) is a person with whom the petitioner has a dispute about seniority in service. Learned counsel further pointed out that a just and fair decision could not be expected from such a Transfer Committee. We do not consider it necessary or proper to consider the above grievance of the petitioner. If the petitioner has got such a grievance, the remedy available to him is to approach the Government and impress upon the Government that the recommendation of the Transfer Committee was not impartial or fair or unbiased. Since the petitioner has no complaint against the Secretary to Government or the Minister, we have no reason to assume that if the petitioner raises his grievance before the Government, it will not be considered by the Government in a just and fair manner.

4. Hence the writ petition is dismissed without prejudice to the right of the petitioner to approach the Government for redressal of his grievance and the right of the Government to take appropriate decision on any representation that may be submitted by the petitioner against the impugned transfer.

(J.C.S. Rawat, J.)
30.09.2005

(Cyriac Joseph, C.J.)
30.09.2005

