

No fundamental right to claim transfer or posting : Allahabad High Court

Puja Kumari Singh And 3 Others

...Petitioners

versus

State of U.P

...Respondent

Case Number: WRIT – A No. – 4726 of 2023

Neutral Citation No. – 2023:AHC-LKO:80683

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Facts

- Petitioners are assistant teachers appointed in various districts under UP Basic Education (Teachers) Services Rules, 1981
- They sought inter-district transfer under the policy dated 02.06.2023 and challenged clause 12(4) which grants additional points if spouse is in government service
- Board clarified on 16.06.2023 that only employees under Article 309 are considered government service for this purpose
- Petitioners aggrieved as their spouses work in banks, PSUs, aided schools etc which were excluded

Court's Opinions

- Assistant teachers have no fundamental right to transfer

- or posting of choice, subject to administrative needs
- As per service rules, inter-district transfer is an exception, teachers appointed at district level based on their choice
 - Board as policy maker, best suited to interpret the meaning of “government service”; court can’t substitute its view
 - Government employees have distinct status with privileges under constitution/laws not available to PSU employees
 - Implementation of transfer policy for current academic session makes interference improper

Arguments by Parties Petitioners:

- Exclusion of certain classes of services arbitrary, violates Article 14
- Non-disclosure of weightage marks violates past practice
- Spouses in PSU banks/organizations render service to government or public

Respondents:

- Policy provides rational criteria for inter-district transfers
- Board best suited to interpret government service in transfer policy context
- Employees of PSUs/banks cannot claim parity with government servants

Referred Laws & Sections

- UP Basic Education (Teachers) Services Rules, 1981
- UP Basic Education (Teachers) (Posting) Rules, 2008
- Article 14, 226 and 309 of the Indian Constitution
- Supreme Court judgments on extent of interference in transfer matters

Key Points

- Board's interpretation of 'government service' as per policy can't be interfered with
- Distinction between government and PSU/bank employees is reasonable
- Academic session mid-way, hence no interference warranted in implemented policy