

**Court No. - 4**

**Case :-** WRIT - A No. - 5198 of 2024

**Petitioner :-** Prakhar Saxena

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Agriculture Lko. And 3 Others

**Counsel for Petitioner :-** Syed Mohammad Haider Rizv, Ritika Singh, Tushar Mittal

**Counsel for Respondent :-** C.S.C.

**Hon'ble Rajesh Singh Chauhan, J.**

Heard Ms. Ritika Singh, learned counsel for the petitioner and Ms. Parul Bajpai learned Additional Chief Standing Counsel for the State.

By means of the present writ petition, the petitioner has assailed the impugned order of transfer dated 30.06.2024 passed by the Additional Director (Administration), Department of Agriculture, Government of Uttar Pradesh, Lucknow transferring the petitioner who is serving on the post of Junior Assistant in the office of Deputy Director Agriculture, Bareilly to the office of Deputy Director Agriculture, Bahraich on the administrative ground.

So as to substantiate the administrative ground, learned counsel for the petitioner has drawn attention towards annexure-5 to the writ petition which is letter dated 30.06.2024 preferred by the Deputy Director Agriculture, Bareilly addressing to the Director Agriculture, U.P., Lucknow making allegation against three employees including the petitioner with the request that those employees may be transferred from Bareilly. The name of the petitioner finds place at serial no.3 whereby the allegation has been levelled against him is that he could not prepare the files within time and is not following the directions of superior officers.

Ms. Ritika Singh, learned counsel for the petitioner has stated that without verifying the aforesaid allegation, the transfer order has been passed on the same date i.e. 30.06.2024 when such complaint has been made. She has further submitted that if there were complaints against the petitioner, atleast one fact finding enquiry was required so as to ascertain as to whether he has committed wrong or not. In case, he has been transferred only on the basis of such complaint, that transfer order is not only punitive but that is not permissible under law.

Ms. Parul Bajpai, learned Additional Chief Standing Counsel has stated, on the basis of instructions, that for transferring the petitioner the administrative reason was not the sole reason but the petitioner has completed about 9 years services at Bareilly , therefore, as per the transfer policy /government policy he has been transferred from one place to another place. However, she has submitted that recital to this effect has not been given in the transfer order. On that point of punitive transfer order, she has stated that the petitioner has not been transferred so as to punish him, though one complaint has been preferred by the Deputy Director of Agriculture, Bareilly against him.

Therefore, considering the aforesaid submission of the learned counsel for the parties and after perusal of the aforesaid paper, it appears that the date of complaints and date of transfer is the same. The administrative reasons so indicated in the transfer order is that complaint so atleast one fact finding enquiry was necessary which has not been undertaken by the competent authority.. Therefore, for that reason alone, this transfer order suffers from perversity and illegality.

Accordingly, this writ petition is **allowed**. The impugned order of transfer dated 30.06.2024 (Annexure-1) is hereby set aside/quashed only on the aforesaid ground. However, it is always open for the competent authority to pass any appropriate order of transfer against the employees inasmuch as this is the prerogative of the competent authority to transfer the employee strictly as per the government policy/transfer policy and strictly in accordance with law.

There will be no order as to costs.

**Order Date :- 11.7.2024**  
akhilesh/-