

**Court No. - 4**

**Case :-** WRIT - A No. - 7120 of 2024

**Petitioner :-** Amresh Yadav

**Respondent :-** State Of U.P. Thru. Prin. Secy. Deptt. Of  
Tourism Lko.And 2 Others

**Counsel for Petitioner :-** Shivanshu Goswami,Atul  
Krishna,Prerna Jalan

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

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

1. Heard Sri Shivanshu Goswami and Sri Atul Krishna, learned counsels for the petitioner and Ms. Deepshiksha, learned Chief Standing Counsel-II for the State.

2. By means of this writ petition, the petitioner has prayed for the following reliefs:-

*"(I) to issue a writ, order or direction in the nature of certiorari quashing impugned transfer order dated 28.06.2024 issued by the Respondent No.2 in so far as it relates to the petitioner, copy whereof is annexed as Annexure No.1 to the writ petition.*

*(II) to issue a writ, order or direction in the nature of mandamus commanding the Respondents to permit the petitioner to continue discharging his duties as Principal Assistant in the office of Regional Tourist Officer Faizabad Division/ Devipatan Division, Faizabad i.e. the post on which the petitioner was working prior to issuance of impugned transfer order datd 28.06.2024 by the respondent No.2.*

*(III) to issue a writ, order or direction in the nature of mandamus commanding the respondents to decide the representation sent by the petitioner on 20.08.2024 considering the medical condition of the son of the petitioner, copy whereof is annexed as Annexure No.8 to the writ petition."*

3. Learned counsel for the petitioner has stated that pursuant to the impugned transfer order though the petitioner has submitted his joining at the transferred place but he is still having grievance inasmuch as the petitioner's seven months son has been diagnosed with a congenital disability known as clubfoot which has caused significant impairment to his leg. The aforesaid ailment needs a specialized treatment and for the treatment of the aforesaid ailment the petitioner will have to sit with the Doctors and Specialists many times. The petitioner is taking specialized treatment of his son at Ayodhya where he was serving and if he fails to come to Ayodhya for the aforesaid

treatment from Gorakhpur where he has been transferred his son may suffer irreparable loss and injury.

4. In support of his aforesaid contention, learned counsel for the petitioner has placed reliance upon the decision of this Court passed in ***Writ-A No.460 of 2021; Syeda Rukhsar Mariyam Rizvi vs. State of U.P. & others***; wherein this court has observed that disability of a children coming within the purview of the Rights of Persons with Disabilities Act, 2016 is a valid consideration for considering the grievance of the employee relating to transfer.

5. Be that as it may, since the petitioner has already submitted his joining at the transferred place pursuant to the impugned transfer order, therefore, the transfer order may not be interfered with at this stage but noting the fact that the petitioner is still having his bonafide grievance which appears to be genuine, therefore, he may prefer a representation to the opposite party No.2 i.e. the Director General, Directorate of Tourism, Uttar Pradesh, Vipin Khand, Gomti Nagar, Lucknow apprising his bonafide grievance and the aforesaid representation may be considered strictly in accordance with law. The Apex Court in the case in re: ***S.C. Saxena vs. Union of India & others*** reported in ***(2006) 9 SCC 583*** has observed in para-6 that pursuant to the transfer order, the employee should submit his/her joining at the transferred place and after submitting his/her joining, he/ she may prefer a representation to the Competent Authority and the Competent Authority is duty bound to dispose of his representation, strictly in accordance with law and as per transfer policy. Therefore, the prayer of the petitioner to the effect that his representation may be directed to be considered by a speaking and reasoned order, appears to be reasonable in view of the dictum of Apex Court rendered in the case in re: ***S.C. Saxena (supra)***.

6. Ms. Deepshikha, learned Chief Standing Counsel-II has stated that if the petitioner has preferred any representation to the Competent Authority may take appropriate decision, strictly in accordance with law.

7. In view of the above, without entering into merits of the issue and without interfering with the impugned transfer order, the instant writ petition is being disposed of finally at the admission stage permitting the the petitioner to prefer a fresh representation to the opposite party No.2 i.e. the Director General, Directorate of Tourism, Uttar Pradesh, Vipin Khand, Gomti Nagar, Lucknow taking all pleas and grounds which are available with him annexing therewith copy of his earlier representation, if any, and the relevant documents in support of

his claim within a period of one week from today, and if any such representation is preferred by the petitioner within a stipulated time, the authority concerned shall consider and decide the representation of the petitioner sympathetically, strictly in accordance with law by passing a speaking and reasoned order with expedition preferably within a period of three weeks from the date of presentation of a certified copy of this order along with representation and the decision thereof be intimated to the petitioner forthwith.

**8.** In view of the aforesaid terms, the instant writ petition is ***disposed of finally.***

**[Rajesh Singh Chauhan,J.]**

**Order Date :- 31.8.2024**

Suresh/