

**Court No. - 6**

**Case :-** WRIT - A No. - 20206 of 2021

**Petitioner :-** Smt. Maya

**Respondent :-** State Of U.P. Thru. Prin. Secy. Medical Health And Ors.

**Counsel for Petitioner :-** Shreya Chaudhary, Nishi Chaudhary, Rinku Kumar Verma

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

**Hon'ble Vivek Chaudhary, J.**

1. Heard Ms. Shreya Chaudhary, learned counsel for petitioner and learned Standing Counsel for the State.

2. Petitioner, by the present writ petition has challenged the order of transfer dated 12.07.2021 as well as order dated 12.08.2021 whereby representation of petitioner is rejected.

3. Learned counsel for petitioner submits that petitioner, who is Class-IV employee has been transferred from Lucknow to Kanpur by transfer order dated 12.07.2021 on administrative ground. The said order does not give any reason whatsoever for transferring the petitioner. Petitioner has approached this Court on ground that Class-IV employee cannot be transferred so far away. This Court directed the representation of petitioner to be considered and decided on merits. While deciding the representation, large number of allegations were leveled against the petitioner which includes that she remains on leave, she acts in whimsical manner which causes disturbances in the work, she is careless in attending insured persons/patients. Reference is made to certain letters written by some officers concerned. Learned counsel for petitioner submits that in the given circumstances the transfer amounts to transfer on punishment which could not be made except following due process. Learned counsel for petitioner further submits that even presuming Class-IV employee is to be transferred on

punishment, the same cannot be to a far away place and has to be within the same district. Further submission is that the impugned order is also passed without providing any opportunity of hearing to the petitioner.

4. Learned Standing Counsel submits that looking into the conduct of petitioner, the transfer order is rightly passed.

5. In the given facts and circumstances of the case where allegations are being made against petitioner in rejecting her representation against the impugned transfer order, the transfer order becomes punitive in nature. No punishment can be awarded to the petitioner without giving any opportunity of hearing. Therefore, the impugned order cannot stand. It is further to be noted that no Class-IV employee should normally be transferred out of district. The department itself follows the said policy as is reflected in the transfer order dated 12.07.2021 itself, by which five Class-IV employees are transferred, three of them on personal request out of district, the fourth in public interest within the district and fifth, petitioner, is transferred out of district on administrative grounds. When the department is making out of district transfer only on request and otherwise accommodating persons within the district, there was no reason to transfer the petitioner out of district.

6. In view therefore, the impugned orders dated 12.07.2021 and 12.08.2021 cannot stand and are set aside.

7. The writ petition is ***allowed***.

**Order Date :- 7.3.2022**

Arti/-

**[Vivek Chaudhary,J.]**