

(2003) 07 AHC CK 0218

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6166 of 2003

CN 141 C.P. Kaushlesh Singh and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 09-07-2003

Acts Referred:

Uttar Pradesh Police Regulations, 1948 — Regulation 525

Citation : (2003) 6 AWC 5461 : (2003) 3 UPLBEC 2038

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Poonam Srivastava, for the Appellant;

Final Decision : Allowed

Judgement

Vineet Saran, J.—Petitioners are aggrieved by the order dated 28.1.2003 passed by respondent No. 2, Superintendent of Police, Mahoba. The petitioners are Constables in Civil Police and by the impugned order they have been transferred to the Armed Police for a period of six months.

2. Smt. Poonam Srivastava, learned Counsel appearing on behalf of the petitioners, has urged that constables of the Civil Police can be transferred to the Armed Police by the Superintendent of Police only under Regulation 525 of the U.P. Police Regulation (hereinafter referred to as the Regulations). It has been contended that since the conditions of the said regulation are not fulfilled in the present case, the petitioners could not have been transferred.

3. Learned Standing Counsel has submitted that transfer of the constables from the Civil Police to the Armed Police can be made by the Superintendent of Police as per the requirement which may be assessed by the Superintendent of Police of the district and in case if he finds that there is shortage of armed police personnel, the constable of Civil Police can be transferred to the Armed Police. He has, however, not been able to show any other regulation besides Regulation 525 of the Regulations by virtue of which the Superintendent of Police of a district can

transfer the constables of the Civil Police to the Armed Police.

4. Having heard learned Counsel for the parties and on perusal of record, I am of the opinion that this writ petition deserves to be allowed. Regulation 525 of the Regulations empowers the Superintendent of Police to transfer a constable of Civil Police to the Armed Police who has put in more than two years and less than ten years of service, for a period not exceeding six months in any one year. Regulation 525 of the Regulations is quoted below :-

"525. Constable of less than two years" service may be transferred by the Superintendent of Police from the armed to the Civil Police or vice versa. Foot Police constables may be transferred to the mounted police at their own request. Any civil police constable of more than two and less than ten years" service may be transferred to the armed police and vice versa by the Superintendent for a period not exceeding six months in any one year. All armed police constables of over two years" service and civil police constables of over two and under ten years" service may be transferred to the other branch of the force for any period with the permission of the Deputy Inspector General.

In all other cases the transfer of police officers from one branch of the force to another or from the police service of other Provinces to the Uttar Pradesh requires the sanction of the Inspector General."

5. It is the specific case of the petitioners that they have been in service as constables for periods ranging from 15 to 20 years. Specific averments to this effect have been made in Paragraph 17-A of the writ petition which fact has not been denied by the respondents in their counter affidavit. Considering the fact that the Superintendent of Police of the district has the power to transfer a constable from Civil Police to the Armed Police only under Regulation 525 of the Regulations and the conditions of the said Regulation have not been fulfilled in the present case as all the petitioners are admittedly working as contrables for more than 15 years, they could not have been transferred from the Civil Police to the Armed Police under the said Regulation. The impugned order dated 28.1.2003, thus, deserves to be quashed.

6. The writ petition is, accordingly, allowed and the order dated 28.1.2003 is quashed in so far as it relates to the petitioners. The respondents are restrained from transferring the petitioners from Civil Police to the Armed Police. However, there shall be no order as to costs.