
(2011) 12 AHC CK 0154
In the Allahabad High Court
Case No : Service Single No. - 8685 of 2011

Const. 602 C.P. Krishna Lal Prajapati	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 02-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0154

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hon"ble Anil Kumar, J.—Heard Shri Sushil Pandey, learned counsel for petitioner, learned Standing Counsel and perused the record.

2. By means of the present petition, the petitioner has challenged the impugned order of trnasfer dated 19.11.2011 (Annexure No. 1) passed by opposite party No. 6 i.e. Superintendent of Police, Sitapur.

3. Learned counsel for petitioner while assailing the impugned order of transfer submits that the same is in contravention to the direction/policy as law laid down by order dated 7.6.1993 passed by Director General of Police by which it is provided that the police constables who are going to retire shall be posted and accommodated at the place of their choice except home district. Hence the impugned order is arbitrary in nature.

4. I have heard learned counsel counsel for parties and perused the record.

5. The law is well settled that transfer being exigency of service can be effected by the employer concerned in accordance with administrative exigency, in the interest of administration and public interest at any point of time and that cannot be monitored and guided by this Court unless it may be shown that transfer order is vitiated on account of the contravention of the statute, or lacks jurisdiction or mala fide.

6. In the present case as argued by learned counsel for petitioner that the impugned order of transfer is in violation of transfer policy is not correct because in the case of Union of India and Others Vs. S.L. Abbas, Hon''ble Apex Court has held as under:-

The said guideline, however, does not confer upon the Government employee a legally enforceable right.

7. The said view has been reiterated by Hon''ble Supreme Court in the case of Rajendra Roy Vs. Union of India (UOI) and Another, wherein the Apex Court has held as under:

It is true that the order of transfer often causes a lot of difficulties and dislocation in the family set up of the concerned employees but on that score the Oder of transfer is not liable to be struck down. Unless such order is passed mala fide or in violation of the rules of service and guidelines for transfer without any proper justification the Court and the Tribunal should not interfere with the order of transfer.

8. In the case of Bank of India Vs. Jagjit Singh Mehta, the Hon''ble Supreme Court has held as under:

The said observations in fact tend to negative the respondent's contentions instead of supporting them. The judgment also does not support the Respondent's contention that if such an order is questioned in a Court or the Tribunal, the authority is obliged to justify the transfer by adducing the reasons therefor. It does not also say that the Court or Tribunal can quash the order of transfer, if any of the administrative instructions/guidelines are not followed, much less can be characterized as mala fide for that reason. To reiterate, the oder of transfer can be question in a Court or Tribunal only where it is passed mala fide or where it is made in violation of the statutory provisions.

9. The said view was again reiterated by Hon''ble Supreme Court in the case of National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and others, .

10. For the foregoing reasons, I do not find any illegality or infirmity in the impugned order dated 19.11.2011 (Annexure No. 1) passed by opposite party No. 3 by which the petitioner has been transferred.

11. However, as prayed, it is provided that petitioner is permitted to move a fresh representation to O.P. No. 6/Superintendent of Police, Sitapur within two weeks from today in respect to his grievances which he has raised in the present writ petition annexing all relevant documents and materials in support of his case along with self address stamped envelope and after receiving the same O.P. No. 6 shall consider and dispose of by way of speaking and reasoned order in accordance with law within a further period of three weeks thereafter and communicate to him.

12. With the above observations, writ petition is dismissed.