
(2010) 09 UK CK 0015

In the Uttarakhand High Court

Case No : Writ Petition No. 1099 (S/S) of 2009

Constable 38 Armed Police Sanjeev Kumar

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Citation : (2010) 3 UC 1601

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.S. Verma, J.—Pleadings have been exchanged. Learned Counsel for the parties have submitted that the writ petition may be disposed of at the admission stage itself.

2. By means of this petition, the petitioner has sought a writ of mandamus directing the respondent No. 3 to relieve/transfer the petitioner from Armed Police to Civil Police as the Civil Police is the original cadre of the petitioner.

3. Briefly stated the facts giving rise to the writ petition are that the petitioner was appointed as Constable Civil Police in the year 2002. The respondent No. 3, Senior Superintendent of Police, Udham Singh Nagar passed an order, transferring the petitioner temporarily for six months, from Civil Police to Armed Police. The copy of the said order has been annexed as Annexure No. 2 to the writ petition.

4. According to the petitioner the sole controversy in the writ petition is to the effect that as per Regulation No. 525 of U.P. Police Regulations, which are applicable to Uttarakhand State also, a constable of Civil Police of more than two and less than ten years" service may be transferred by the superintendent of Police to Armed Police or vice versa for a period not exceeding six months in any one year. The Regulation 525 is quoted below:

525. Constables 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 constables 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 Police requires the sanction of the Inspector General.

5. Counter affidavit has been filed by the respondents. The stand taken in paragraph No. 4 of the counter affidavit is that there are some adverse entries against the petitioner which were awarded in the years 2003, 2004, 2007 and 2009.

6. There is also the direction issued by the Inspector General of Police, Kumaun Region, Nainital, dated 21-2-2009, Annexure CA-2, to the effect that the Superintendent of Police may transfer a constable from Armed Police to Civil Police having a service of less than two years and a constable of Civil Police to Armed Police having a service of more than two years and less than ten years, as per Regulation 525 for a period not exceeding six months in any one year. Subsequent Circular issued in the year 2009 also provides that the Superintendent of Police may transfer the constable from Civil Police to Armed Police or vice versa for a period of six months in any one year.

7. Heard Mr. Dinesh Gahatori, Advocate for the petitioner and Mr. Subhash Upadhyay, learned Brief Holder appearing for the respondents.

8. Having heard learned Counsel for the parties and perusing the specific provision of Regulation 525, it is quite clear that the respondent No. 3 is empowered to transfer a constable of Armed Police having less than two years service to the Civil Police and the constable of Civil Police having service of more than two years and less than ten years" vice versa, for a period not exceeding six months in any one year. If the police constable is to be transferred for a period more than six months, the approval of Inspector General of Police is necessary, as per Regulation 525. In the case in hand no approval of the Inspector General of Police was sought in the year 2006 to transfer the petition for more than six months. Six months period has already expired in the year 2006 itself. Therefore, in view of the direction contained in Regulation 525 the petitioner cannot be retained at his transferred place for more than a period of six months in a year.

9. The petitioner has averred in para-12 of the writ petition that most of the constables who were transferred in the year 2006 along with the petitioner, have

been relieved to Civil Police from Armed Police. Copy of the said order has been annexed as Annexure - 3 to the writ petition.

10. Therefore, in the above facts and circumstances of the case the petitioner is also entitled to be relieved to his original cadre of Civil Police from Armed Police.

11. The writ petition is allowed and a writ of mandamus is issued, directing the respondent No. 3 to transfer the petitioner from Armed Police to his original cadre of Civil Police, within a period of two weeks, from the date of production of certified copy of this order.