

(2006) 03 AHC CK 0193
In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 15451 of 2006

Constable 756 CP Charan Singh and Constable 193 CP
Sahdev Singh

APPELLANT

Vs

State of U.P. and Senior Superintendent of Police

RESPONDENT

Date of Decision : 22-03-2006

Acts Referred:

Citation : (2006) 6 AWC 6563

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Satya Prakash Pandey, for the Appellant;

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Learned Counsel for the petitioners is permitted to implead Inspector General of Police, Kanpur Zone, Kanpur as respondent No. 3 during the course of the day.

2. Heard Sri Satya Prakash Pandey, Advocate on behalf of the petitioners and learned Standing Counsel on behalf of respondents.

3. The petitioners, who are working as Constables in civil branch of the U.P. Police Subordinate Services, are aggrieved by an order of transfer, dated 5th March, 2006, passed by the Senior Superintendent of Police, Muzaffarnagar, where under the petitioner has been transferred, for a period of six months, to the armed branch of U.P. Police.

4. On behalf of the petitioners it is contended that the impugned order of transfer, runs contrary to Regulation 525 of the U.P. Police Manual and therefore, is unsustainable in the eyes of law. The petitioners have put in more than ten years of service in Civil Police, therefore they cannot be transferred to any other branch and in support thereof reliance has been placed upon the judgment of this Court in the case of CN 141 C.P. Kaushlesh Singh and Others Vs. State of U.P. and Another, In the alternative it is submitted that even if the petitioner

could be transferred from one branch to another of the U.P. Police, since they had completed more than ten years of service, such transfers would necessarily require sanction of the Inspector General of Police and in absence of any recital to that effect in the impugned order, the same cannot be legally sustained.

5. I have heard learned Counsel for the parties and have gone through the records of the present writ petition.

6. With due respect to the judgment of this Court relied upon by the petitioners in the case of CN. 141 CP Kaushlesh Singh and Ors. (Supra), this Court is of the opinion that the 2nd paragraph of Rules 525 of the U.P. Police Manual has not taken care of in the aforesaid judgment.

7. For considering the controversy raised by the petitioners, it would be relevant to re-produce Regulation-525 of the Police Mannual, which reads as follows:

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 won 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

8. From a bare reading of the Regulation-525 it is established that the same is in three parts:

(i) First parts deals with constables, who have put in two years of service only.

(ii) Second parts deals with constables, who have put in more than two years but less than ten years of service.

(iii) Third parts deals with all other cases of transfer of Police officers, which includes constable, not covered by the first and second clauses of Regulation-525, inasmuch as the second paragraph of Regulation 525 starts that the words " in all other cases", meaning thereby that the categories of police officers not covered by the first- two clauses, can be transferred under last clauses of Regulation-525.

9. In view of the aforesaid, the contention raised on behalf of the petitioners that they cannot be transferred from one branch to another as they have put in ten years of service as constable in Civil Branch, cannot be accepted. This Court holds that constables, who have put in more than ten years of service are covered by the 2nd Paragraph of Regulation-525 and such constables can also be

transferred from one branch to another, subject, however, to the conditions mentioned in the 2nd Paragraph of Regulation-525.

10. The 2nd Paragraph of Regulation-525, however, provides that in all such cases, transfer requires the sanction of the Inspector General of Police, it is to be kept in mind that the word "prior" is not prefixed to the word "sanction. Meaning thereby that prior sanction of the Inspector General of Police is not contemplated by the 2nd Paragraph of Regulation-525 and therefore, such sanction can be obtained/granted by the Inspector General of Police subsequent to the issuance of the order of transfer in respect of police officers, covered by 2nd Paragraph of Regulation-525. Therefore, the order of transfer cannot be said to be illegal merely on the ground that the same does not contain any recital to the effect that sanction has been granted by the Inspector General of Police. Further such sanction may be recorded on the concerned file and it is not necessary that recital to that effect must be made in the order itself. It is not the case of the petitioner that such sanction has been refused by the Inspector General.

11. However, the Inspector General of Police is required to consider and decide for himself as to whether sanction should be granted or not and therefore, it is necessary that records in respect of transfer of police officers over ten years of service, be placed before the Inspector General of Police for consideration of the issue as to whether the sanction is to be granted in the facts of the case or not at the earliest.

12. In view of the aforesaid, the present writ petition is devoid of merits and is accordingly dismissed subject to the observations that the Senior Superintendent of Police, Muzaffarnagar shall transmit all the records pertaining to the transfer of the petitioner and other constables, who have put in more than ten years of service from one branch to another for being placed before the concerned Inspector General of Police for consideration of the sanction in accordance with Regulation-525 of the U.P. Police Mannual, preferably within two weeks, from the date a certified copy of this order is filed before the Senior Superintendent of Police, Muzaffarnagar. On receipt of the aforesaid, the concerned Inspector General of Police shall apply his mind to the facts of the present case and shall pass appropriate orders either refusing or sanctioning the transfer, by means of a reasoned speaking order, at the earliest possible. The aforesaid exercise must be completed within four weeks from the date the papers are so received by the concerned Inspector General of Police. The petitioners shall at liberty to file such objection before the Inspector General of Police for being retained in their parent branch i.e. Civil Branch. The Inspector General of Police shall also consider the objections of the petitioners while deciding the issue of sanction.