
(2015) 01 AHC CK 0129

In the Allahabad High Court

Case No : Special Appeal Defective No. 83 of 2015

C.P. Mohammad Sajid and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 28-01-2015

Acts Referred:

Citation : (2015) 3 ADJ 668 : (2015) 2 ALJ 486 : (2015) 2 AWC 1737 : (2015) 2 ESC 1222

Hon'ble Judges : Dinesh Maheshwari, J;B. Amit Sthalekar, J

Bench : Division Bench

Advocate : Siddharth Khare and Ashok Khare, for the Appellant

Final Decision : Dismissed

Judgement

1. Having regard to the circumstances, while condoning short delay of 12 days in filing this appeal, we have examined the matters on merits. This intra court appeal is directed against the order dated 12.12.2014 passed in Writ A No. 36842 of 2014 whereby the learned single Judge of this Court, while dismissing the said writ petition with a batch of petitions laid by Writ A No. 34228 of 2014 has rejected the challenge led by the writ petitioners to the Government Order (GO.) dated 07.06.2014 reimposing ban on the posting of certain police personnel's in the districts bordering their home districts and in such districts where the incumbent is holding immovable property.

2. It is borne out from the material placed on record and the observations made in the order impugned that initially, a G.O. dated 27.06.1983 was issued for the purpose of regulating the transfer/posting etc. of the police personnel's in the State of U.P. This G.O. was modified by another G.O. dated 11.07.1986 whereby, restrictions were placed on the posting of various classes of police personnel's in their home districts or the districts bordering their home districts. However, by another G.O. dated 20.03.2012, the restrictions regarding posting of Constables and Head Constables in the districts bordering their home district was done away with and, consequently, the petitioners-appellants came to be posted in various

districts bordering their home districts. However, by the impugned G.O. dated 07.06.2014, the aforesaid G.O. dated 20.03.2012 is withdrawn with the result that the restrictions on postings in the home districts, the districts bordering the home districts, as also the districts wherein immovable property of the incumbent is situated stands revived.

3. The present appellants were given the postings with reference to the restrictions now operating pursuant to the G.O. dated 07.06.2014. Aggrieved, the appellants preferred the writ petition leading to this appeal which has been considered and dismissed by the learned single Judge by way of the impugned common order dated 12.12.2014.

4. In the impugned order dated 12.12.2014, the learned single Judge has dealt with several issues raised in the writ petitions in sufficient detail. However, all such aspects are not required to be dilated in this order for only a limited point raised herein.

5. The only argument advanced by Sri Ashok Khare, learned Senior Counsel on behalf of the petitioners-appellants in challenge to the order impugned is that the petitioners belong to the State of Delhi and they cannot be considered to be the resident of any District in the State of Uttar Pradesh and therefore, the impugned order dated 07.06.2014 cannot be applied ipso facto to their case.

6. We have examined this appeal on the limited point that has been argued before us and are clearly of the view that no case for interference is made out.

7. It is noticed that the reason for issuance of the G.O. dated 07.06.2014 has essentially been the recommendation of the Director General of Police, who found several shortcomings in the general conduct of the personnel leading to practical difficulties.

8. Such aspects have been noticed by the learned Single Judge in the order impugned; and we may refer to the observations made in that regard in paragraph 22 of the order impugned as under:

"22. In the counter-affidavit filed on behalf of the State respondents, it is stated that the impugned Government Order has been issued on the basis of the recommendations made by the Director General of Police, Uttar Pradesh vide its letter dated 28.5.2014. A copy of the said letter has been brought on record as Annexure CA-3 to the counter-affidavit filed in the writ petition No. 34228 of 2014 Manish Kumar Dixit and Others Vs. The State of U.P. and Others, (2015) 1 ALJ 734 . The letter dated 28.5.2014 by Director General of Police; U.P. Lucknow is addressed to Principal Secretary, Home, U.P. Administration Lucknow. The subject matter of the letter is transfers and postings of constables and head constables in the State. It has been observed that after issuance of Government Order dated 20.3.2012, there is no restriction on posting of constables and head constables in districts bordering their home district. It has been noted that the past experience and information received so far reveals that posting of

constables and head constables in districts bordering their home district is resulting in serious practical difficulties. The constables and head constables leave their places of posting during night, as they go to their home in the adjoining district, and are thus not available in case of emergency. This is adversely impacting the law and order in the State. It has been further noted that because of their posting in districts bordering their home district, the members of the police force generally have their relations in the same district, impacting their impartiality. They are found interfering in trivial matters, adversely affecting the image of the police department. It was concluded that the present policy of transfer and posting is thus having adverse effect on maintenance of the law and order in the State and curbing the activities of the criminals. It was suggested that the relaxation granted by Government Order dated 20.3.2012 be reviewed. The State Government accepted the recommendations made by the Director General of Police vide its letter dated 28.5.2014 by issuing Government Order dated 7.6.2014, re-imposing ban on postings of constables and head constables in districts bordering their home district. Thus, Clause (5) of the Government Order dated 11.6.1986 stands revived and now, constables and head constables cannot be posted in their home districts, in districts adjoining their home districts and in districts where they hold immovable properties."

8-A. The G.O. dated 07.06.2014 reads as under:

9. Viewed in the light of the object sought to be achieved, the submissions of the learned counsel for the appellants, if accepted, would practically render the G.O. dated 07.06.2014 redundant in relation to a large number of such personnel's, who might be said to be belonging to any district in other State adjoining the boundaries of the State of U.P. Such an interpretation, which would frustrate the object of the order concerned, cannot be countenanced.

10 In the aforesaid order, the expression "home district" cannot be interpreted in the limited or restricted sense to mean only the home district within the State of U.P. When the very object is that the police personnel like the appellants are not to be posted in a district which is bordering their home district, the expression "home district" applies to all such districts which can be identified as the original place of residence of the incumbent concerned. Such a place of residence can be in the State of U.P. or even in the neighboring/adjoining State/Territory. In our view, there is no warrant for the proposition that the expression "home district" occurring in the G.O. dated 07.06.2014 be read only as "the home district within the State". Such a narrow or restricted interpretation, as observed, would defeat the very purpose of this G.O. dated 07.06.2014; and an interpretation defeating the purpose and object of an instrument/order is never countenanced. The submission of the learned counsel for the appellants, thus, remains untenable. The appeal fails and is therefore, dismissed.