

(2007) 10 AHC CK 0045
In the Allahabad High Court

Gyandhari Pal, Samrendra Kumar Pandey and Rakesh Kumar
Upadhyay

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-10-2007

Acts Referred:

Citation : (2008) 116 FLR 137

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the petitioner, the standing counsel for the respondents and perused the record.

2. The contention of the counsel for the petitioner is that the petitioners were appointed in U.P. Police on the post of Constables.

3. It is further submitted that respondent No. 5 passed an order on 31.5.2007 directing the department of police in which 675 Constables have been transferred from U.P. to State of Uttrakhand.

4. It is next submitted that the respondent No. 8 published a list on 24.9.2007 of 182 Constables who has to be transferred from State of U.P. to Uttrakhand, the petitioners' name find place at SI. No. 163, 167 and 168. Thereafter the petitioners have approached to the Deputy Inspector General of Police, Police Head Quarter Allahabad, U.P by an application., which is still pending.

5. Aggrieved by the final allocation order of State of Uttaranchal the petitioners have come up in this writ petition.

6. According to the U.P. Reorganization Act, 2000 list of allocation and the transfer list of the employees have to be decided by State Advisory Committees of the two States and final list was to be decided by the Union of India. Now final allocation has taken place after consultation between the State Advisory

Committees of the two States and the Union of India.

7. Since final allocation has been made after inviting objections from the petitioners I am of the considered opinion that the Court should not interfere in the policy matter of allocation of employees to the two States under the statutory provisions of the Reorganization Act, 2000. Transfer is an exigency of service. The State of U.P. has been bifurcated under the U.P. Reorganization Act, 2000 and now the State of Uttaranchal has been carved out. The provision of allocation of experienced officers by way of transfer have been made in the Act for smooth functioning of the new State and also for reducing the burden of surplus manpower in the parent State of U.P.

8. Moreover, this writ petition is without jurisdiction in view of the decision rendered in *General Manager, N.E. Railway, Gorakhpur and Ors. v. Jamait Ram Khatanani and Ors.* 1975 31 FLR 246. In that case the Court held that once an employee is transferred and posted to a particular place acceptance of the transfer order by that employee is immaterial. Even though he may not join his duties or physically may not go to the new place of posting he will continue to be posted there in the eye of law. His place of posting cannot be deemed to have changed merely because he disobeys the order of his transfer.

9. In this view of the matter the services of the petitioners having transferred to the State of Uttaranchal only the State of Uttaranchal has territorial jurisdiction in the matter. The writ petition is accordingly dismissed. No order as to costs.