
(1997) 08 AHC CK 0091
In the Allahabad High Court
Case No : C.M.W.P .No. 25958 of 1996

Kedar Nath Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 11-08-1997

Acts Referred:

Uttar Pradesh Police Regulations, 1948 — Regulation 520, 524, 525, 526

Citation : (1998) 1 AWC 699 : (1998) 79 FLR 241

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : A. Wahal, K.N. Tripathi and Yogesh Agrawal, for the Appellant; Jai Singh and S.C., for the Respondent

Final Decision : Dismissed

Judgement

D.K. Seth, J.—The petitioner was posted in the Civil Police Force of the Police Department. According to Mr. Yogesh Agrawal the petitioner being a Sub-Inspector of Police has been sought to be transferred from one Branch of the Police Department to another Branch of the Police Department which is contrary to Regulation 525 of the Police Regulations as it requires sanction of the Inspector General of Police on transfer of police personnel from one branch to another branch of the Police Department in the cases of persons other than constables. According to him, in the present case, no such sanction has been given by the Inspector General of Police. The order of transfer was issued by the Deputy Inspector General of Police (Administration). According to him, therefore, the order of transfer is void ob initio.

2. Learned standing counsel, on the other hand, relies on the statement made in paragraph 10 of the counter-affidavit that the question of sanction does not arise in the present case in view of the order dated 29th March, 1990 by which the Inspector General of Police had delegated his power of grant of sanction in such cases to the Deputy Inspector General of Police (Administration). According to him, the power of grant of sanction may also be delegated by the Inspector

General of Police.

3. This argument has been adopted by the learned counsel appearing for the respondent No. 4 who is sought to be impleaded as such. His application for impleadment is also allowed by this order on the ground that he having been transferred to the post held by the petitioner had been released from his original post but by reason of the interim order passed in this case, he is not getting his salary. Therefore, his application is allowed. The office will incorporate the name of respondent No. 4 in the writ petition in course of two weeks. Further Mr. Agrawal contends that he has received instructions to submit that the newly added respondent has already joined somewhere and is not waiting for the post held by the petitioner. Be that as it may, his addition will not affect the petitioner's right in any manner. On the other hand, any order passed in this matter being passed in the present case of the newly added respondent cannot be assailed by any one to the extent that it has affected the right of the third party.

4. Rule 525 of the U. P. Police Regulations in its second paragraph provides that:

"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."

This proviso is added to the main paragraph of Regulation 525 of the U. P. Police Regulation which deals with the transfer of constables having two years service as well as those having more than two years and less than 10 years service. Therefore, in view of Regulation 525, the sanction of Inspector General of Police is necessary for transfer of a Police Officer from one branch of the Police Department to another branch of the same Department.

5. Now by virtue of the order dated 29th March, 1990, the Inspector General of Police conferred the power of grant of sanction to the Deputy Inspector General of Police (Administration). This delegation, according to Mr. Agrawal, is wholly without jurisdiction inasmuch as, a plain reading of Regulation 525 does not indicate that any power can be delegated by the Inspector General of Police. He relies on the decision in the case of Commissioner of Police, Bombay Vs. Gordhandas Bhanji, , in support of his contention that it is the authority upon whom the power is conferred, he has to exercise such power and unless specifically a provision is made entitling him to delegate such power, no delegation could be effected.

6. The question of transfer is dealt with in Chapter XXXIV of the Police Regulations which consists of Regulations 520 to 526. The power of transfer has been given in respect of Inspectors through the Inspector General of Police whereas those of the Sub-Inspectors have been conferred in the Deputy Inspector General if it is made within the range. Read with Regulation 520, Regulation 525 deals with the transfer from" one branch of the Police Department to the other in respect of constables below two years of service who

may be transferred by the Superintendent of Police to the branches mentioned whereas those constables having service for more than two years but below 10 years could be transferred by the Deputy Inspector General of Police but in cases of other Officers who are not within the purview of the first paragraph can be transferred from one branch to another with the sanction of the Inspector General of Police but it has not been pointed out as to who is the authority who would be transferring the Officers other than the posts covered by the first paragraph of Regulation 525.

7. Thus, it appears that the authorities as provided in Regulation 520 of the said Regulations can effect the transfer even under the second paragraph of Regulation 525 in respect of the concerned Officers. Now Mr. Agrawal contends to interpret that this proviso includes Sub-Inspector as well. In my view, the contention cannot be accepted in view of the fact that Regulation 525 deals with constables having two years service and those having more than two years and less than 10 years service. The proviso is to be read in the context of the first paragraph. The phrase "In all other cases" means constables having more than ten years of service. Regulation 525 does not deal with the transfer of Sub-Inspector or any Officers above. The question of transfer of Sub-Inspector or Inspector are covered by Regulations 520 and 524. A plain reading of Chapter XXXIV does not imply that Regulation 520 or 524 is covered by Regulation 525 in any manner whatsoever, since Regulation 520 specifically lays down that the Inspector General of Police may transfer Sub-Inspectors. In my view, therefore, that power is lying with the Deputy Inspector General of Police. Even though the sanction as is contemplated in Regulation 525 having been given to the Deputy Inspector General of Police, the question is no more open to be agitated. In that view of the matter, the decision cited by Mr. Agrawal in the case of Commissioner of Police v. Gordhandas (*supra*) does not have any application in the distinct facts and circumstances of the case in hand. In that view of the matter, the writ petition fails and is dismissed. There shall be no order as to costs.