
(2004) 02 AHC CK 0159
In the Allahabad High Court
Case No : C.M.W.P. No. 46862 of 2003

Nanak Chand

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-02-2004

Acts Referred:

Uttar Pradesh Police Regulations, 1948 — Regulation 525

Citation : (2004) 2 AWC 1434(2) : (2004) 102 FLR 440 : (2004) 2 UPLBEC 1202

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : M.L. Rai and Babu Lal, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the parties and perused the record.

2. This petition has been filed by the petitioner challenging the order of transfer dated 9.10.2003 (Annexure-1 to the writ petition). At the time of admission following interim order was passed on 20.10.2003 :

"Although a very spirit and wild allegations have been made for resisting the impugned transfer order transferring the petitioner from Civil Police to Inter-State Border Police, prima facie no policemen of the civil police would like to go to the Inter-State Border Police because for obvious reason there are more hazards involved in that posting and the same is less lucrative. Therefore, at this stage, I am not inclined to believe the allegations. However, the petitioner may join at new place of posting. In case the writ petition succeeds, the petitioner can always be transferred back to his original posting.

I am also not inclined to believe at this stage that Inter-State Border Police is a separate "branch" as mentioned in Regulation 525. It is not necessary that merely because some members of the civil police assigned to a particular task by separate name constitutes a separate "branch". This aspect may also be highlighted by means of supplementary-affidavit regarding the allegations of

mala fides.

Learned standing counsel may file counter-affidavit within one month.

List thereafter."

3. No counter-affidavit has been filed on behalf of the State. Supplementary-affidavit was filed by the petitioner on 20.10.2003 which is on the record.

4. The only contention of the petitioner is that the order of transfer is in violation of Regulation 525 of the Police Regulations as the petitioner had not given his consent for his transfer. The counsel for the petitioner further contends that the impugned transfer order dated 9.10.2003 was passed mala fide and illegally against the petitioner on the direction of Mr. Azam Khan who is local M.L.A. and leader of the Samajwadi Party.

5. From perusal of Annexure-1, the transfer order it is apparent that the petitioner was transferred on administrative ground. He was earlier transferred vide order dated 21.5.1997 and was directed to join in S.I.S. (Special Investigation Staff) which was challenged by him by filing Writ Petition No. 19815 of 1997 in which he was successful in obtaining the interim order on the ground that the transfer will result in depriving of special emoluments of Rs. 70 per month which the petitioner was getting as Station Officer of Police Station, Pakwara.

6. The counsel for the petitioner has further urged that the petitioner is now 55 years of age and has no concern with the Inter-State Border Police Force, Lucknow, and as such, his transfer order is liable to be quashed.

7. The order of transfer of the petitioner is as under :

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8. From perusal of the aforesaid order it is apparent that the petitioner was

simply transferred and no mala fide or political pressure, etc. can be inferred from ft. The petitioner has made wild allegation which is without any basis. It appears that the said allegation was made only to get an interim order from this Court. The intention of the petitioner appears to remain in the civil police and has challenged the transfer order as he was successful on the earlier occasion. It is not disputed that the services of the petitioner are transferable. Regulation 525 of the Police Regulations is only in the nature of an exception which provides that an authority can transfer a person from civil police to another branch of the police. Inter-State Police Force is not a separate (branch) as mentioned in Regulation 525 of the Police Regulations. Even otherwise, the services of the petitioner are transferable under Fundamental Rule 14B he may join at the transferred place of posting with open eye. He cannot resist the transfer order on the ground of his personal difficulty having attained the age of 55 years. The case of the petitioner is not in contravention of Regulation 525 of the Police Regulations.

9. For the reasons stated above, it is not a fit case for interference under Article 226 of the Constitution of India.

10. The writ petition is dismissed. No order as to cost.