

(2011) 05 AHC CK 0144

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 25589 of 2011

Nepal Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Citation : (2011) 05 AHC CK 0144

Hon'ble Judges : V.K. Shukla, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.K. Shukla, J.—In this bunch of writ petition, each one of the Petitioners claim that they are physically disabled and each one of the Petitioner has been transferred from Moradabad to Gautam Budh Nagar and Saharanpur respectively. Petitioners at this juncture have rushed to this Court contending therein that they are physically disabled, as such they should not be transferred.

2. This much is accepted that Petitioners hold transferable post and the authority who has passed order of transfer has got full competence to pass order of transfer. Petitioners have miserably failed to point out the violation of any statutory Rules or Regulation. Transfer order has been affected in the present case as a policy decision, that an incumbent can not be permitted to be posted in the adjoining district of his home district and in this background each one of the Petitioners as a policy decision have been transferred from Morabad to Gautam Budh Nagar except for Petitioner of writ petition No. 25589 of 2011, wherein said Petitioner has been transferred from Morabad to Saharanpur. On such factual aspect of the matter, there is no challenge on the body of writ petition.

3. Once policy decision has been taken not to retain an incumbent in the adjoining district of his home district for efficient administration of police force then Petitioner can not claim as a matter of right that as they are physically handicapped as such they are not at all liable to be transferred. Transfer policy is

enforcible in the Court of law, and in case there is any breach of transfer policy, then authorities, on complaint being made can always answer the situation.

4. Petitioner holds transferable post; order of transfer has been passed by competent authority and there is no violation of any Rules or Regulation; in such a situation and in this background, in view of the judgment of Hon"ble Apex Court in the cases of Mrs. Shilpi Bose and Ors. v. State of Bihar and Ors. reported in 1995 (71) FLR 1011 (SC); State of U.P. and Others Vs. Gobardhan Lal, ; Union of India (UOI) and Others Vs. Sri Janardhan Debanath and Another, and S.C. Saxena v. Union of India and Ors. reported in 2006 (9) SCC 583, there is no scope of interference by this Court.

5. However, it is made clear that on personal inconvenience front, and on breach of transfer policy front, Petitioner can always approach the authority concerned after joining at transferred place and authority concerned can always examine the said grievance, but permission to stay in the adjoining district of his home district, can not be accorded once policy decision has been taken and same is in public interest. Personal interest will always have to give way to public interest.

6. With these observations, writ petitions stands dismissed.