
(1993) 07 AHC CK 0050

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 24201 of 1993

Prabhu Nath

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-07-1993

Acts Referred:

Lekhpals Service Rules, 1958 — Rule 21

Uttar Pradesh Consolidation Lekhpal Services Rules, 1978 — Rule 24

Citation : (1993) 3 AWC 1569

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : B.N. Tiwari, for the Appellant;

Final Decision : Dismissed

Judgement

R.A. Sharma, J.—Petitioner, who was consolidation Lekhpal, has by means of this writ petition challenged the order of his transfer dated 17-6-1973, whereby he has been transferred from district Ballia to Mirzapur. Submission of learned Counsel for the Petitioner is that the transfer of Petitioner is governed by Rule 21 of Lekhpals Service Rules, 1958, which provides for transfer of Lekhpal within the district by Collector and within the Sub Division by Assistant Collector. Sub Rule (b) of the same Rule further provides that when any tract is under survey, record or settlement operation or under the operation for consolidation of holdings, the transfer of a Lekhpal outside the area under the aforesaid operation, shall not be made by the Collector of the Assistant Collector without consulting the Records or Settlement Officer, or Settlement Officer of Consolidation, as the case may be. Rule 21 of the aforesaid Rules, reproduced below:

21. Transfers--(a) The Collector may at his discretion transfer a Lekhpal from one halga to another within the district and the Assistant Collector may similarly transfer a Lekhpal within the sub division.

(b) When any tract is under survey, record or settlement operation or under the

operations for consolidation of holdings, the transfer of a Lekhpal outside the area under the aforesaid operation, shall not be made by the Collector, or the Assistant Collector without consulting the Records or Settlement Officer, or the Settlement Officer of Consolidation as the case may be.

It has further been contended that apart from Rule 21 there is no other Rule for transfer of Lekhpal and as Rule 21 deals with transfer of Lekhpal within the district, transfer of Petitioner from one district to another is absolutely wrong. It is not possible to agree with the learned Counsel.

2. Lekhpal Service Rules, 1958 deal with service conditions of Lekhpal. The Petitioner is consolidation Lekhpal and belongs to a different class of Lekhpals. His service conditions are not governed by Lekhpal Service Rules, 1958. For regulating conditions of service of consolidation Lekhpal separate Rules, known as The Uttar Pradesh Consolidation Lekhpals Service Rules, 1978, (hereinafter referred to as Rules), have been framed. It is true that under the Rules there is no provision providing for transfer of Consolidation Lekhpals. But Rule 24, which is reproduced below, has laid down that in regard to the matters not specifically covered by these rules or by special orders, persons appointed to the service shall be governed by the Rules, Regulations and orders applicable generally to Government servants serving in connection with affairs of the State:

24. Regulation of other matters-In regard to the matters not specifically covered by these rules or by special orders, persons appointed to the service, shall be governed by the rules, regulations and orders applicable generally to Government servants serving in connection with affairs of the State.

In view of Rule 24, Rules and orders made by the Government for transferring Government employees will be attracted to the case of consolidation Lekhpals also. It is not disputed that there are Rules and orders, framed by the Government for transfer of the Government employees from one district to another district. In view of above, transfer of Lekhpal from one district to another, is permissible under law.

3. Learned Counsel for Petitioner has, however, strongly relied upon Clause (b) of Rule 21 of the Lekhpal Service Rules, 1958 in support of his submission to the effect that transfers of consolidation Lekhpals are also governed by the above Rules. This submission also cannot be accepted. It is true that above provisions refer to consolidation operation and consultation with the Settlement Officer, Consolidation, before effecting transfer of Lekhpal. 1958 Rules deal with conditions of service of the Lekhpals only. When the area of such a Lekhpal is under consolidation operation or under other operations, reference of which has been made in Clause (b) of Rule 21, Lekhpal continues to remain posted in those areas and perform important functions during that period. He also continues to remain posted even when, during consolidation-operation, Consolidation Lekhpal is also posted. Village record remains in the custody of the Lekhpal who has expert knowledge about it and even consolidation Lekhpal cannot work

effectively without help of the Lekhpal. It is for this reason that restriction have been imposed regarding transfer of such Lekhpal during consolidation operation etc. But this provision does not apply to a consolidation Lekhpal whose conditions are governed as mentioned above, by separate Rules.

4. The reasons given above, the writ petition lacks merit and is accordingly dismissed.

5. Certified copy of this order may be given to the learned Counsel for the parties on payment of usual charges within two weeks.