

(1997) 09 AHC CK 0232

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 30855 of 1997

Shree Ram Singh Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 17-09-1997

Acts Referred:

Uttar Pradesh Police Regulations, 1948 — Regulation 520, 521

Citation : (1998) 1 UPLBEC 523

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

Bench : Single Bench

Advocate : Prem Prakash, for the Appellant;

Final Decision : Dismissed

Judgement

D.K. Seth, J.—The petitioner has challenged the order dated 8.9.1997 by which he has been transferred from Kanpur Nagar to Mainpuri. The said order is Annexure-1 to the Writ Petition.

2. Mr. Prem Prakash, learned Counsel for the petitioner assails the said order on the ground that Dy. Inspector General of Police (Personnel) is not of the Dy. Inspector General of Police of the range in which the petitioner was working and has been transferred. Therefore, the said order of transfer is violative of provisions contained in Regulation 520 of the U.P. Police Regulation (hereinafter called as the Regulations). According to him unless there is specific provisions for delegation, the post having specified, the order could be passed by the Dy. Inspector General of Police (Personnel) in the absence of any provisions for delegations of power in the said Regulations. The Dy. Inspector General of Police (Personnel) is not competent to pass the order. According to him, the order of transfer should be passed under Regulation 521 by the Inspector General of Police. The Inspector General of Police having not delegated the Dy. Inspector General of Police (Personnel), the order of transfer is wholly without jurisdiction.

3. Learned Standing Counsel on the other hand contends that the Dy. Inspector

General of Police (Personnel) operates through out the State of U.P., therefore, it can not be said that it is outside the jurisdiction of the Dy. Inspector General of Police (Personnel) where the petitioner has been posted and was sought to be transferred. Therefore, according to him, the order does not come within the Regulation 521 but squarely comes under the Regulation 520. Therefore, the order is justified.

4. After having heard Shri Prem Prakash, learned Counsel for the petitioner and learned Standing Counsel, it is necessary to refer to Regulations 520 and 521 which are quoted below :-

"520. Transfer of Gazetted Officers are made by the Governor in Council.-The Inspector General may transfer police officers not above the rank of Inspector through-out the province. The Inspector General of Police of the range may transfer police officers not above the rank of inspector throughout the province.

The Deputy Inspector General of Police of the range may transfer inspector, sub-inspectors, head constables and constables, within his range; provided that the postings and transfers of inspectors and reserve sub-inspectors in hill stations will be decided by the Deputy Inspector-General of Police, Headquarters. Transfers which result In Officers being Stationed for from their homes should be avoided as much as possible. Officers above the rank of constable should ordinarily not be allowed to serve in districts in which they reside or have landed property. In the case of constables the numbers must be restricted as far as possible.

Sub-inspectors and head constables should not be allowed to stay in a particular district for more than nine years and ten years respectively and in a particular police station not more than there years and five years respectively. In the Tarai area (including the Tarai and Bhabar Estates) the period of stay of sub-inspectors, head constables and constables should not exceed five years.

521. The Inspectors-General may, without the sanction of Government.

(a) transfer to-

(i) foreign service within the province other than to service in an Indian State, and

(ii) another department of Provincial Government, and Government servant whom he can without reference to Government appoint or transfer in the ordinary course of administrative and may also fill any post so vacated by promotion and enlistment when necessary.

(b) and subject to the same restrictions as in clause (a) transfer as Government servant to a temporary appointment outside the province for a period not exceeding two years in the first instance and may extend the period of such temporary transfer up to a period of two years.

5. A plain reading of the said Regulations clearly show that so far as the transfer

of sub-inspectors are concerned the same can be made by the Deputy General of Police of the range with the exception that transfers of inspectors and reserve sub-inspectors in hill stations is to be decided by the Deputy Inspector-General of Police, Headquarters. Therefore, the said provisions clearly indicates that in some cases, Deputy Inspector-General of Police, Headquarters who having jurisdiction over the State of U.P. may transfer. If some transfer is to be made outside the range in respect of Sub-Inspectors, the same can be made either by the Deputy Inspector-General of Police of the range or by the Deputy Inspector-General of Police having jurisdiction over the State of U.P.

6. Admittedly, the Dy. Inspector-General of Police (Personnel) have his control over the whole of U.P. Dy. Inspector-General of Police (Personnel) is responsible only for the purpose of regulating the posting and transfer and other incident of service of the police personnel. He does not exercise control for such purpose over any within the ranges. On the other hand his power has been given by reason of appointment as Deputy Inspector General of Police (Personnel) throughout the State of U.P. for particular purpose which includes posting of Sub-Inspectors outside Manager. Since Dy. Inspector General of Police (Personnel) is a nominated post who can transfer Sub-Inspectors, therefore, I do not find any reason to accept the contention of Mr. Prem Prakash that in absence of delegation of power to Dy. Inspector General of Police (Personnel) by Inspector General of Police, he can not transfer any Sub-Inspector outside the range of his (Sub-Inspector's) posting. Here in there is no question or necessity of delegation of power to Dy. Inspector General of Police (Personnel) who is competent authority appointed for such purpose and Regulation 520 contemplates exercise of power by Dy. Inspector General of Police of the range or by Dy. Inspector General of Police, Headquarters. Therefore, the order of transfer can not be said to be without jurisdiction or incompetent. I am therefore unable to agree with the submission of learned Counsel for the petitioner.

7. The writ petition fails and is accordingly dismissed.

8. There will, however, be no order as to cost.