
(2007) 12 AHC CK 0075

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 70751 of 2006

Divya Sharma & Ors.

APPELLANT

Vs

State of U.P. & Ors.

RESPONDENT

Date of Decision: Dec. 22, 2007

Acts Referred:

- Constitution of India, 1950 - Article 16

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

Final Decision: Dismissed

Judgement

1. Petitioners, who had been performing and discharging duties as constable, have approached this Court, challenging the validity of order dated 18122006, whereby they have been transferred from Varansi to District Chandauli.

2. Learned counsel for the petitioners contended that in the present case personal inconvenience would be caused to his clients on account of their transfer, as such transfer order is liable to be interfered with.

3. Learned Standing Counsel, on the other hand, contended that the petitioners are members of disciplined force, and in administrative exigency they have been transferred, as such no interference is warranted, and writ petition is liable to be dismissed.

4. After respective arguments have been advanced, the undisputed position is that petitioners are members of disciplined force and hold transferable post, and in the order which has been passed, there is no violation of any statutory Rules nor is there any element of mala fide.

5. In the case of Mrs. Shilpi Bose v. State of Bihar 1995 (71) FLR 1011 : (AIR 1991 SC 532), Hon"ble Apex Court has held that a government servant holding transferable post has no vested right to remain posted at one place or the other; he is liable to be transferred from one place to other. Transfer order issued by the competent authority do

not violate any legal right. Even if transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead the affected party should approach the higher authorities in the Department.

6. In the case of *State of U. P. v. Goverdhan Lal*, 2004 (101) FLR 586 (SC): (2004 All LJ 1433), Hon"ble Apex Court has held that unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot be lightly interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfer or containing transfer policies at the best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments.

7. Hon"ble Apex court in the case of *Union of India v. Janardan Debanath*, 2004 (4) SCC 245 : (AIR 2004 SC 1632) has taken the view that no government servant has any legal right to be posted for ever at one particular place, and such transfer order shall not be interfered with unless the power of transfer has been exercised mala fide or statutory Rules have been violated. Apart from this when there is prima facie satisfaction on contemporary reports being received about the conduct of incumbent, instead of taking recourse to regular disciplinary proceeding, incumbent can be transferred.

8. On the touchstone of the judgments cited above, claim of petitioner is adjudged. In the present case, as petitioners are members of disciplined force and transfer has been made in administrative exigency in adjoining district Chandauli from Varanasi, as such there is no occasion to interfere with the transfer order.

9. Writ petition, as has been framed and drawn, lacks substance, and the same is dismissed.