

**(2009) 07 AHC CK 0288****Allahabad High Court****Case No:** Civil Miscellaneous Writ Petition No. 321377 of 2009

Ram Narain Constable Driver  
862290670

**APPELLANT****Vs**

State of U.P. and others

**RESPONDENT****Date of Decision:** July 3, 2009**Hon'ble Judges:** Rakesh Tiwari, J**Bench:** Single Bench**Advocate:** R.K. Tripathi and Smt. Anupama Tripathi, for the Appellant;**Final Decision:** Dismissed

### **Judgement**

Rakesh Tiwari, J.

Heard Counsel for the parties.

The petitioner, a constable had been transferred from Ghaziabad to Bulandshahr in 2005 and thereafter from Bulandshahr to Unnao vide order dated 26.4.2008. He moved a representation with request not to give effect to the order dated 26.4.2008 on the ground that his wife is ill. He has prayed for a writ of mandamus commanding the respondent No. 3 to consider his representation dated 27.11.2008.

2. The Standing Counsel has placed instructions received by him in this case along with application of the petitioner for stay of his transfer to district Hamirpur earlier vide order dated 23.8.2006, The petitioner's application is as under:

3. According to the instructions received by the Standing Counsel, the petitioner is moving application every time when he is transferred. He is posted in Bulandshahr from 11.7.2005 and he is a domicile of district Kanpur Dehat. He had been transferred on his own request from Bulandshahr to Hamirpur vide order dated 23.8.2006 which on his aforesaid application dated 15.4.2008 was stayed. An amended order of transfer was passed nearly about three years after earlier order of transfer to Hamirpur which was on his own request and was stayed upon his application as stated above transferring him to district Unnao. The petitioner has

challenged his transfer made after about three years on the ground that now his wife is ill.

4. A perusal of the prescription dated 21.11.2008 and 25.5.2009 of Dr. Rakesh Kumar Kansai, Ghaziabad appended with the writ petition shows that his wife is suffering high blood pressure with HID for more than a year and is advised angioplasty at Higher Hospital. No follow up investigation appear to have been on the wife of her treatment of alleged angioplasty nor any effort seem to have been made by the petitioner for more than a year for her treatment. Mere advisory prescription by a clinical doctor is not instill confidence in the Court in above circumstances in its authenticity, to interfere in the order of transfer on medical grounds. If the petitioner was aware of ailment of his wife he could have got her treated which could not have taken more than a week's time. A Government employee cannot take benefit of medical ground for stay of his transfer if he does not his family member for treatment for years. The petitioner has already been relieved from Bulandshahr on 3.6.2009. The order of transfer has already taken effect.

5. For all the reasons stated above, this Court is not inclined to interfere - with the order of transfer as petitioner's services are transferable. The petition is accordingly dismissed. No order as to costs.