
(2008) 09 AHC CK 0287

Allahabad High Court

Case No: None

Jay Naryan Prasad, A.S.I. (M)

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Sept. 25, 2008

Acts Referred:

- Police Act, 1861 - Section 1, 12, 13, 2, 20

Hon'ble Judges: Sudhir Agarwal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sudhir Agarwal, J.

The impugned order dated 15.06.2005 passed by the Deputy Inspector General of Police, Establishment, U.P. Police Headquarters, Allahabad [hereinafter referred to as the "D.I.G. (Establishment)"] transferring the petitioner, who is working as Assistant Sub-Inspector (Ministerial) in Civil Police Ghazipur having been transferred from Civil Police Ghazipur to P.T.C. Moradabad (F.A.C.) has been assailed in this writ petition mainly on the ground that it is in violation of Regulation 525 of U.P. Police Regulations (hereinafter referred to the "Regulations"), inasmuch as no prior sanction of Inspector General of Police has been obtained by the D.I.G. The other ground is that Regulation 525 is a self contained provision providing for the conditions in which a constable and police officer can be transferred and if the matter is not covered thereunder, a constable and police officer cannot be transferred at all and for this purpose reliance is placed on the Apex Court's decision in Jasveer Singh v. State of U.P. and Ors. 2008(2) ADJ 484 (SC) .

2. The facts, in brief, giving rise to the present dispute are that the petitioner was posted as Assistant Sub-Inspector (Ministerial) [hereinafter referred to as the "ASI(M)"] in Civil Police in the office of Superintendent of Police, Ghazipur in the year 2000. Vide order dated 15.06.2005 the D.I.G.(Establishment) transferred him at PTC Moradabad. The petitioner said to have made a representation against the said

transfer requesting the authority concerned to allow him to stay at Ghazipur which was considered and thereafter D.I.G. (Establishment) vide order dated 31.01.2006 allowed him to stay at Ghazipur till 31.05.2006 and the transfer order dated 15.06.2005 accordingly was deferred till 31.05.2006. After expiry of the above period, the petitioner, it appears, made further representation and accordingly the aforesaid order of transfer was deferred till 30.05.2007 vide D.I.G. (Establishment's) order dated 01.08.2006. After expiry of the aforesaid period the petitioner has now been relieved by the Superintendent of Police, Ghazipur vide order dated 19.09.2008 directing the petitioner to join at PTC Moradabad. Hence this writ petition.

3. Having heard Sri Vijay Gautam, Advocate for the petitioner and learned Standing Counsel for the respondents, I am not inclined to interfere in the impugned order of transfer for reasons more than one.

4. The order having been passed on 15.06.2005 and the petitioner's request to stay for sometime at Ghazipur was twice accepted by the authorities concerned, I do not find any reason to permit the petitioner now to retract by challenging the very order which he chose not to challenge as such for more than 3 years back when the said order was passed. Moreover, the aforesaid order was suspended by the D.I.G. (Establishment) initially up to 31.05.2006 and thereafter up to 30.05.2007 and there is nothing on record to show that thereafter also it was stayed by the competent authority yet the petitioner has not approached this Court challenging the same for the last more than a year. The relieving order passed by the Superintendent of Police is only for the compliance of the aforesaid order of transfer and that by itself would not explain laches on the part of the petitioner. The petitioner, therefore, ex facie being guilty of laches is liable to be non suited.

5. Even otherwise, coming to the merits of the submission advanced by learned Counsel for the petitioner, in my view, the argument that the transfer order is in violation of Regulation 525 is wholly untenable.

6. The submission with reference to Regulation 525 has to be considered in the light of the other statutory provisions as a whole as well as the authorities of various Courts on the subject, if any.

7. The basic contention of learned Counsel for the petitioner is that Regulation 525 is a self contained Code. The first part of Regulation 525 is applicable for transfer of a "constable" and the various contingencies provided therein are not applicable to the case of the petitioner. The second part of Regulation 525 is applicable to "police officers" meaning thereby the members of police staff who are other than "constable" as held by Apex Court in Jasveer Singh (supra) and, therefore, the second part is applicable in his case. That being so, the transfer of petitioner is said to be violative of second part of Regulation 525 and, therefore, it is contended that the same is liable to be set aside. In support of his contention he also placed reliance on certain Single Judge decisions of this Court namely, Writ Petition No.

44898 of 2006 (Amad Singh v. State of U.P. and Ors.) decided on 25.08.2006, Writ Petition No. 54074 of 2006 (Chandra Pal Singh and Ors. v. State of U.P. and Ors.) decided on 27.09.2006, CN 141 [CN 141 C.P. Kaushlesh Singh and Others Vs. State of U.P. and Another](#), Writ Petition No. 63793 of 2007, Sita Ram v. State of U.P. and Ors. decided on 17.03.2008, Writ Petition No. 60989 of 2007 (Bhupendra Ram and Ors. v. State of U.P. and Ors.) decided on 12.05.2008, Writ Petition Mo. 60973 of 2007 (Anil Kumar Mishra v. State of U.P. and Ors.) decided on 12.05.2008, Santosh Singh and Ors. v. State of U.P. and Ors. 2008 (5) ADJ 529 (LB), Writ Petition No. 20254 of 2008 (Phool Kumar Rai and Ors. v. State of U.P. and Ors.) decided on 28.04.2008, Writ Petition No. 21427 of 2008 (Mitthu Singh Yadav and Ors. v. State of U.P. and Ors.) decided on 28.04.2008, Writ Petition No. 63345 of 2007 (Swadesh Kumar and Ors. v. State of U.P. and Ors.) decided on 17.03.2008, Writ Petition No. 47413 of 2008 (Arunesh Kumar and Ors. v. State of U.P. and Ors.) decided on 16.03.2008, Writ Petition No. 5557 of 2008 (Shobha Prasad v. State of U.P. and Ors.) decided on 05.03.2008, Writ Petition No. 426 of 2008 (Shashi Bhushan and Ors. v. State of U.P. and Ors.) decided on 22.04.2008 and Writ Petition No. 21713 of 2006 (Ram Bilas Yadav v. State of U.P. and Ors.) decided on 11.03.2006. He thus argued that petitioners could not have been transferred is breach of Regulation 525.

8. From the submission of learned Counsel for the petitioner in my view, while testing correctness of the impugned order of transfer on the anvil of Regulation 525 this Court has to consider the following two questions:

1. Who are the members of police force covered by the term "police officer"?

2. Whether Regulation 525 is the sole repository of transfer of a "police officer" and would vitiate an order of transfer if not complied with?

9. In order to answer the aforesaid, it would be appropriate to have a bird eye view of the various provision of the Police Act, 1861 (hereinafter referred to as the "Act 1861") and the Regulations.

10. The term "police officer", as such, has not been defined either in the Act, 1861 or the Regulations. It would be useful to refer some of the provisions of the Act, 1861.

11. Section 1 which is an "interpretation clause" define the word "police". Being an inclusive definition, it states that all persons who shall be enrolled under Act, 1861 shall comprise "police".

12. u/s 2, the constitution of the force i.e. "police force" is provided and it reads as under:

2. Constitution of force- The entire police establishment under a State Government shall for the purposes of this Act, be deemed to be one police force, and shall be formally enrolled, and shall consist of such number of officers, and men, and shall be constituted in such manner, as shall from time to time be ordered by the State Government.

Subject to the provisions of this Act the pay and all other condition of service of members of the subordinate ranks of police force shall be such as may be determined by the State Government.

(emphasis added)

13. Thus Section 2 makes the entire police establishment under the State Government for the purpose of the Act, 1861 as "one police force" consisting of such number of "officers" and "men", and to be constituted in such manner, as may be ordered by the State Government from time to time. These persons shall also be formally enrolled. The pay and other condition of service of the members of "subordinate rank of police force" are to be determined by the State Government.

14. The term "subordinate rank of police force" has also been explained in Section 1 and it provides that reference to a "subordinate rank of police force" shall be construed as reference to members of that force below the rank of Deputy Superintendent.

15. The power of appointment/dismissal of police officers of the subordinate ranks has been conferred, subject to such rules as may be framed by the State Government from time to time under the Act, upon the Inspector General, Deputy Inspector General, Assistant Inspector General and District Superintendent of Police vide Section 7 of the Act, 1861.

16. It is interesting to notice that in Section 4 the word "officer" other than the word "police officer" has been used with reference to Inspector General of Police, Deputy Inspector General of Police, Assistant Inspector General of Police, District Superintendent and Assistant District Superintendent as would be evident from a bare reading of Section 4 reproduced as under:

4. Inspector General of Police etc.- The administration of the police throughout c general police district shall be vested in an officer to be styled Inspector-General of Police, and in such Deputy Inspector-General and Asistant Inspector-General as to the State Government shall deem fit.

The administration of the police throughout the local the jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the State Government shall consider necessary.

(emphasis added)

17. This is strengthened from a reading of Section 8 which provides that every "police officer" other than "officer" mentioned in Section 4 shall receive on appointment a certificate in the form annexed to the Act 1861 under the seal of Inspector General or such other officer as the Inspector General shall appoint by virtue of which the person holding such certificate shall be vested with the powers,

functions and privileges of a "police officer". It also provides that a "police officer" once issued certificate and so long as his certificate is not surrendered or seized shall continue to be a "police officer" subject to the same responsibility, discipline and penalties as are prescribed in the Act or Rules even if he has been placed under suspension inasmuch as during the period of suspension only the power, function and privileges shall be in abeyance but responsibility, duties and privileges etc. would continue.

18. Section 9 provides that "police officer" shall not resign without leave or after giving two month's notice to the "District Superintendent".

19. Section 13 provides that no "police officer" shall engage in any employment or office other than his duties under the Act unless expressly permitted to do so in writing by the Inspector General.

20. Section 13 confers power upon "officers" like, Inspector General, Deputy Inspector General, Assistant Inspector General and District Superintendent to provide additional "police officer" at the cost of individual wherever necessary subject to the general direction of the Magistrate of the district on the application of the person concerned to keep peace at any place.

21. Sections 20, 22, 23, 24 and 25 of the Act 1861, in similar manner, provide for authority to be exercised by the "police officers", who would always be on duty and may be employed in any part of the State, their general duties, empowerment of a police officer to lay any information before the Magistrate and take charge of unclaimed property subject to the order of Magistrate for disposal. For ready reference the aforesaid provisions are reproduced as under:

20. Authority to be exercised by police-officers- Police-officers, enrolled under this Act shall not exercise any authority, except the authority provided for a police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

22. Police officer always on duty and may be employed in any part of district- Every police officer shall, for all purpose in this Act contained, be considered to be always on duty and may at any time be employed as police officer in any part of the general police district.

23. Duties of police officers- It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the police peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice, and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists; and it shall be lawful for every police-officer, for any of the purposes mentioned in this section without a warrant, to enter and inspect any drinking shop, gaming-house or other

place of resort of loose and disorderly characters.

24. Police officers may lay information etc.- It shall be lawful for any police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence.

25. Police offers to take charge of unclaimed property and be subject to Magistrate"s order as to disposal-It shall be the duty of every police- officer to take charge of all unclaimed property and to furnish an inventory thereof to the Magistrate of the district.

The police officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

22. Therefore; from the various provisions of the Act 1861 it is evident that the term "police officer" has been used to include all the members of police force, from Constable to Inspector General of Police, but at places wherever the "officers" of higher rank are to be referred the legislature has used the word "officer" instead of "police officer". From the various provisions of the Act it cannot be said that the term "police officer" by itself does not include a "constable", He is also a "police officer", once enrolled in the police force and is subject to various duties, obligations etc. as provided in the Act which are to be discharged by a "police officer".

23. Even from the Regulations it is evident that the term "police officer" includes "constables" within its ambit.

24. Regulation 396 of the Regulations provides for various bodies consisting of police force and reads as under:

396 The Police Force consists of the Following bodies:

(1) Provincial Police, Civil, Armed and Mounted.	Appointed and enrolled under Act V of 1861.
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(2) Government Railways Police	
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(3) Village chaukidars	..Appointed in Agra under Act XVI of 1873 and in Oudh under Act XVIII of 1876. Not enrolled under act V of 1861.
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25. The "officers" of the police force are categorised as "gazetted officers" and "non-gazetted officers". Two categories thereof as provided in Regulations 327 and 398 of the Regulations are as under:

397. The gazetted officers of the Force are:

- (1) Inspector-General
- (2) Deputy Inspectors-General.
- (3) Superintendents.
- (4) Assistant Superintendents.
- (5) Deputy Superintendent.

398. The non-gazetted officers of the Force are:

- (1) Inspectors.
- (2) Sub-Inspectors.
- (3) Head Constables.
- (4) Constables.

26. Regulation 398, therefore, makes it very clear that the non gazetted officers of the police force includes "constables" and the rule framing authority has not made any distinction while using the term "police: officer" to make it distinct from constables.

27. Regulations 406, 407 and 408 of the Regulations make it clear that power of appointment has been conferred upon the Deputy Inspector General of Police in respect to the police officers appointed/promoted to the rank of Sub-inspectors. With respect to Head Constable and Constable, the power of appointment/promotion has been conferred upon the Superintendent of Police.

28. Considering the first question in the light of the various provisions of the Act and Regulations noticed above, it is very clear that the term "police officer" in general includes the entire hierarchy of the police force and therefore a constable is also a police officer.

29. Now coming to the second question, Regulation 525 is a part of Chapter XXXIV which contains Regulations 520 to 526 regarding transfer of police officers.

30. Regulation 520 provides that the transfer of gazetted officers is to be made by the Government in Council. It reads as under:

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 throughout the province.

The Deputy Inspector General of Police of the range may transfer inspectors, 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 far 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 three 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.

31. Reading Regulation 525 alongwith regulation 520 makes it clear that the term "police officer" used in Regulation 525 necessarily does not include "gazetted officers" inasmuch as when the power of transfer has been conferred upon the higher authority i.e. the State Government, it is inconceivable that in such cases, a subordinate authority i.e. Inspector General can be supposed to give sanction for such transfer. It would be wholly inappropriate to suggest that the State Government while exercising its power of transfer of gazetted officers would necessarily, be bound to obtain sanction from Inspector General of Police who is also a police officer liable to be transferred by the State Government under Regulation 520. From a simple reading Regulation 520 cannot be said to be regulated by Regulation 525 as is evident from a conjoint reading of various provisions of Chapter XXX. of the Regulations.

32. Further, Regulation 520 also confer power of transfer upon the Inspector General in respect to "police officers" not above the rank of Inspectors throughout the provide. Therefore, when Inspector General himself is exercising the power of transfer it is inconceivable that he would be seeking sanction or approval either of himself or of any other inspector. General and, therefore, reading Regulation 525 in harmony with other provisions namely, Regulation 520 it can safely be said that a transfer order passed by the Inspector General of Police would also not attract restrictions provided under Regulation 525. Thus the contention that Regulation 525 is a self contained Code in respect to all police officers is misconceived.

33. There is another part of Regulation 520 which confers general power of transfer upon the Deputy Inspector General of Police of the range concerned to transfer inspectors sub-inspectors, head constables and constables within his range and does not admit of any restriction therein. It also provided that the transfer of inspectors in hill stations shall be decided by the DIG Headquarters. It is also provided in Regulation 520 that sub-inspectors and head constables should not be allowed to stay in a particular district for more than 9 years and 10 years respectively and in a particular station for more than 3 years and 5 years respectively.

34. Similarly, Regulation 521 confers power upon the Inspector General to transfer a government servant whom he can, without reference to government, appoint or transfer in ordinary course of administration to foreign service within the province or another department of the State Government or as temporary appointee outside the province for a period not exceeding two years and may extend the period of such temporary transfer up to a period of two years. Regulation 521 reads as under:

521. The Inspector-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, any Government servant whom he can without reference to Government appoint or transfer in the ordinary course of administration and may also fill any post so vacated by promotion and enlistment when necessary.

(b) and subject to the some 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.

35. From Regulations 520 and 521, it is thus evident that the persons who can be transferred by the Inspector General thereunder includes constables also. There is no reason to restrict the power of Inspector General to transfer police officers up to the rank of inspectors by taking recourse to Regulation 525 and thereby to make the application of be aforesaid provision impossible or impracticable. That being so the restrictions imposed under Regulation 525 would not apply to a "police officer" including a "constable" when he has been transferred by the Inspector" General himself in exercising of his power under Regulations 520 and 521.

36. Regulation 524 confers general power of transfer within the district of the officers below the rank of inspectors upon Superintendent of Police. In respect to inspectors and officer-in-charge of Police Station his power is circumscribed with the condition of obtaining approval from the District Magistrate and in case of disagreement the matter is required to be referred to the DIG of range for his decision. For ready reference Regulation 524 is quoted below:

524. The Superintendent may, within his district, transfer all officers of and below the rank of inspector. In the case of inspectors and officers in charge of police stations, he must before passing orders obtain the approval of the District Magistrate. Should the District Magistrate, and Superintendent of Police be unable to agree in regard to the transfer of any officer, the matter may be referred to the Deputy Inspector General of range for decision:

Provided that in the district where the Collector/Deputy Commissioner is Collector/Deputy Commissioner-in-charge of the Division, his functions under this sub-paragraph will be exercised by the Additional District Magistrate (Executive).

Officers-in-charge of police stations shall ordinarily be retained in their charges for at least two years. Subordinate officers at police stations should not be transferred without good reason. No officer liable to station duty shall be withdrawn from that duty for a longer period than one year, except in Kumaun where the withdrawal of head constable for two years at a time from station duties is permitted.

37. Besides, for transfer of officers from one district to another the Superintendent of Police is supposed to send his proposal along with service roll to higher authorities. Regulations 522 and 523 are reproduced as under:

522. The Superintendent when proposing a transfer from the district should send the character and service roll of the officer to be transferred.

With the consent of the Superintendents concerned mutual exchanges may be arranged by head constable: or constables. The proposed exchanges shall be reported to the Deputy Inspector General. Travelling allowance will not be payable on the occasion of such transfers.

523. On receipt of an order of transfer of a subordinate officer to another district the Superintendent will arrange to relieve him of his duties within ten days.

Officers transferred are entitled to joining time, but the Superintendent may not grant leave to an officer under order of transfer.

An inspector relieved on transfer from another district is entitled to sign a certificate of taking over charge from the date of arrival in the new district. If the officers to be relieved cannot be present at headquarters, the charge certificate should be signed for him by the Superintendent of Police, or, in his absence, by an Assistant Superintendent of Police or Deputy Superintendent of Police. The effect of this will be that an officiating officer will be considered to have been reverted, and permanent incumbent's joining time or leave or discharge, will be counted from the date on which the relieving officer takes over charge.

38. A conjoint reading of Regulations 522 and 523 along with Regulation 520 makes it clear that transfer of a police officer outside the district would be referred to the DIG if the district is within the same range since it is the DIG of range who is competent to make such transfer and if it is beyond the range then the reference shall be made to the Inspector General who is competent to make transfer of the police officer up to the rank of inspector throughout the province.

39. Now coming to Regulation 525, I find that it provides certain restrictions in respect to certain cases and is not an exhaustive provision at all. It reads as under:

525. Constable of less than two years" service may be transferred by the Superintendent of Police from the armed to the civil police or vice versa. Foot Police constables may be transferred to the mounted police at their own request. Any civil police constable of more than two and less than ten years" service may be transferred to the armed police and vice versa by the Superintendent for a period not exceeding six months in any one year. All armed police constables of over two years" service and civil police constables of over two and under ten years" service may be transferred to the other branch of the force for any period with the permission of the Deputy Inspector General

In all other cases the transfer of police officers from one branch of the force to another or from the police service of other Provinces to the Uttar Pradesh Police requires the sanction of the Inspector General.

40. Thus Regulation 525 provides, (a) Superintendent of Police may transfer a constable of less than two years service from armed to Civil Police or vice versa, (b) Foot Police constables may be transferred to the Mounted Police at their own request, (c) a constable in Civil Police of more than two years and less than 10 years of service may be transferred to armed police and vice versa by Superintendent for a period not exceeding six months in any one year, (d) all Armed Police constables of over two years and Civil Police constables of over two years and under 10 years may be transferred to the other branch of force for any period with the permission of the Deputy Inspector General of Police, (e) in all other cases the transfer of police officers from one branch of the force to another or from the police service of other provinces to Uttar Pradesh requires the sanction of Inspector General.

41. The last para, therefore, covers every other case where the transfer of a police officer results in change of branch or province which is not covered by the earlier part and in that case the same can be given effect but it would require the sanction of Inspector General.

42. The later part, therefore, if read conjointly with other Regulations of Chapter XXXIV would make it clear that where a transfer is being made by a Superintendent of Police in respect to the police officers i.e. constables whom he can transfer, if such transfer results in change of branch etc. the same can be given effect but it would require sanction of the Inspector General. As already observed, Regulations 520 and 24 clearly show that the Superintendent of Police and Deputy Inspector General of Police may transfer the non-gazetted officers within their jurisdiction and, therefore, by necessary implication the term "police officer" in the second part of Regulation 525 may include within its ambit all non-gazetted police officers including constables. In respect to certain constables some conditions have been prescribed in first part of Regulation. 525 and in respect to all other cases which is wide enough to include the residuary cases, the later part of Regulation 525 would apply. But this would apply when such transfer is being made by Superintendent of Police.

43. This is not the end of the matter. A further careful reading of Regulation 525 shows that it imposes restrictions in respect to transfer by Superintendent of Police requiring certain formalities namely approval of higher authorities i.e. DIG and Inspector General of Police. It thus cannot be said that Regulation 525 has overriding effect over Regulations 520 or 521 and the power of transfer independently conferred upon the Inspector General or DIG stands diluted by virtue of later part of Regulation 525. It is true that Regulation 525 in the first part refers to only "constables" and in the second part it refers to "all other cases of transfer of police officers". However, the term "police officer" in this case includes the constables also whose cases are not covered under the first part and the only restriction is that the order of transfer which is sought to be passed by the Superintendent of Police having the effect of change of branch etc. would require the sanction of the Inspector General. The second part of Regulation 525 has to be read in conformity with the first part of Regulation 525 as also other provision of Chapter XXXIV of the Regulations and cannot be read in isolation. The power of transfer of Superintendent of Police which has been conferred in general vide Regulation 524, to some extent has been restricted by Regulation 525 if it falls within 12 categories mentioned in Regulation 525. In a case where the contingencies provided in Regulation 525 are not attracted, the Superintendent of Police having general power of transfer under Regulation 524 can well exercise the same and it cannot be challenged on the ground that it is not covered by Regulation 525.

44. In view of the aforesaid discussion and considering the fact that in the case in hand the petitioner working as ASI(M) has been transferred by D.I.G. (Establishment) and not by the Superintendent of Police, in my categorical opinion, Regulation 525 has no application to the case in hand. The submissions advanced by learned Counsel for the petitioner intends to exclude and ignore other provisions of Chapter XXXIV of the Police Regulations and to make them redundant which is not permissible in law. It is well settled principle of interpretation that various provisions of statute have to be read conjointly and in harmony and no provision can be read in a manner so as to make other provisions of the statute redundant, superfluous or impracticable. The suggestion of learned Counsel for the petitioner that the words "in all other cases of transfer of police officer" must be read to cover the cases of transfer of all police officers other than those referred to in the first part of Regulation 525 is not correct. His argument in effect would mean that Regulation 525 and to this extent Regulation 525 should be read as if it has an overriding effect over all other provisions of Chapter XXXIV of Police Regulations. It can neither be accepted in the light of the provisions of the statute nor even otherwise view of the well settled principles of interpretation. From a bare reading of Regulation 525 it is evident that it has not been given overriding effect on other Regulations. Even otherwise I do not find any reason to read it in a manner as suggested by learned Counsel for the petitioner. Instead of referring to the catena of decisions in support

of the above view taken by this Court that no provision of a statute can be read in isolation, it would be useful to refer the observations of the Apex Court in a recent decision i.e. [National Insurance Co. Ltd. Vs. Laxmi Narain Dhut](#), as under:

No part of a statute and no word of a statute can be construed in isolation. Statutes have to be constructed so that every word has a place and everything is in its place.

45. It is thus evident that the second part of Regulation 525 covers those cases of transfer of police officers who are sought to be transferred by Superintendent of Police and in their cases if such a transfer is likely to result in change of the branch of the force or it results in transfer from police service of other province to U.P., in such a case sanction of Inspector General would require and the Superintendent of Police would not be competent on his own to make such a transfer. From Regulation 524 it is evident that Superintendent of Police can transfer all officers of and below the rank of Inspector which obviously includes a "constable" also since the term "police officer" includes a constable being a non gazetted police officer but it is subject to Regulation 525. The second question is answered accordingly.

46. Learned Counsel for the petitioners placing reliance on the Apex Court's decision in Jasveer Singh (supra) in order to contend that the Apex Court has held therein that the later part of Regulation 525 would not apply to constables.

47. I have perused the aforesaid judgment. Therein the petitioner, Jasveer Singh was working in Civil Police and was transferred to Armed Police. The limited question which was considered by the Apex Court as mentioned in para 4 of the judgement is as under:

Whether a person who has worked in Armed Police can be transferred to the Armed Police and vice versa or not?

48. Apparently there appears to be some mistake in the said question inasmuch the term "Armed Police" has been used twice and probably it is Civil Police. Jasveer Singh had put in more than 10 years of service in Civil Police and was transferred to Armed Police by the Superintendent of Police. The Apex Court held that the aforesaid transfer is not permissible to be made by the Superintendent of Police as he was not authorised to do so under Regulation 525.

49. Learned Counsel for the petitioner vehemently placed reliance on para 7 of the judgement where the Apex Court rejecting contention of the counsel for the State of Uttar Pradesh observed that the second part of Regulation 525 is in respect of "police officer" and not a police constable who is covered by first part of Regulation 525 and, therefore, the later part would not cover the petitioner in that case.

50. Relying on the aforesaid observations, the learned Counsel for the petitioner vehemently argued that this observation of the Apex Court clearly shows that the later part of Regulation 525 would not apply to a police constable and the earlier part of Regulation 525 is sole repository thereof. In my view the argument is clearly

misconceived. A judgement is not to be read as statute but in order to find out a binding precedent one must go through the entire judgement and find out the ratio decidendi in the light of the issue raised, argued and decided therein. Difference of a single fact may make a word's difference. Learned Standing Counsel rightly pointed out that before the Apex Court it appears from the judgement that the parties were *ad idem* with the term "police officer" as distinct from a "police constable" as is evident from the argument raised on behalf of State which as such was not disputed by the other side except of the contention that Regulation 525 in first and second part covers "police constable" and "police officer" respectively and, therefore, a distinction was sought to be made between the term "police constable" and "police officer". An argument proceeded on concession or without referring to other provisions would not operate as *resjudicata* particularly when the statute creates a different situation. The Apex Court, it appears, had no occasion to consider as to whether in the light of the various provisions of the Act 1861 and the Police Regulations the term "police officer" would include "police constable" or not. It proceeds on the assumption as if the term "police officer" does not include within its ambit the "police constable". Even otherwise it does appear that before the Apex Court neither it was argued nor it has the occasion to consider the question as to whether the term "police officer" would include within its ambit the term "police constable" not in the light of the question posed by it in para 4 of the judgement. However, before this Court the learned Standing Counsel has not proceeded on such concession but has clearly submitted that the term "police officer" clearly includes a constable and has no hesitation in saying that the stand taken by the State Government before the Apex Court was not consistent to the provisions of the regulations and rightly it was rejected by the Apex Court in *Jasveer Singh* (supra).

51. Moreover, in *Jasveer Singh*'s the Apex Court has nowhere said that the power of transfer of the authorities higher than Superintendent of Police would also be governed by Regulation 525 and, therefore, the aforesaid judgement is not an authority when a transfer is made by D.I.G. or any officer above him.

52. Lastly, in my view in the present case, reference to the judgement in *Jasveer Singh* (supra) has no application at all since in the case in hand it is a case of transfer of ASI(M) who is not a constable and has been transferred by the D.I.G. (Establishment). Therefore, by no stretch of imagination either Regulation 525 has any application to the facts of this case or the judgement in *Jasveer Singh* (supra) would have any application.

53. Lastly, it is faintly sought to be argued by learned Counsel for the petitioners that other provisions of Chapter XXXIV of Police Regulations are not statutory as Police Regulation is a compilation of various provisions contained in the executive orders issued by the State Government, Director General of Police, Inspector General of Police under Sections 2 and 12 of the Act 1861 and some are the statutory provisions referable to Sections 7 and 46(2) of the Act 1861. Since all the

provisions of Chapter XXXIV are not shown to have been framed in exercise of rule framing authority u/s 36(2) of the Act 1861, therefore, the provisions of transfer are not statutory and would not override Regulation 525 which has been held by the Apex Court to be statutory. In my view, the above submission also has no force in the light of the various decisions of the Apex Court considering various provisions of the Police Regulations as may be referred to in brief hereunder.

54. In [Niranjan Singh Vs. The State of Uttar Pradesh](#), a four Judges bench of the Hon'ble Apex Court while considering the question is to whether Rule 109 in Chapter XI of the Police Regulations is a statutory provision or not held that the aforesaid Police Regulations are not the Rules framed by the Inspector General in accordance with Section 12 and further held as under:

They are the result of the State Government laying down the mode of conduct and how the officers have to perform their duties. Rules 109 in Chap. XI dealing with the investigation of crimes enjoins upon the police officers when an investigation is closed for the day to note the time and place at which it closed and also lays down that throughout the investigation the diary must be sent daily to the Police Superintendent on all days on which any proceedings are taken.... Nowhere in the rules is it stated that there is any statutory authority for the framing of Rule 109, nor is it said to form any addition to a); 3 statute, even though some other rules are expressly stated to be statutory ones. Such being the case, it is clear that R.109 has no statutory foundation but is only an injunction by the executive Government to the police officers as to how they must regulate their work and conduct themselves during the course of investigation.

55. In [The State of Uttar Pradesh and Others Vs. Babu Ram Upadhyaya](#), a Constitution Bench of the Apex Court had an occasion to consider the validity of an order of punishment passed u/s 7 of the Act 1861 which was challenged on the ground that the provision of Regulation 486 of the Regulations were not followed and the High Court having accepted the same set aside the order. The Hon'ble Apex Court considering the provisions made in respect to inquiry and investigation in the matter arising out of proceedings u/s 7 of the Act, 1861, in para 23 of the judgement observed as under:

The Police Act of 1861 continues to be good law under the Constitution. Paragraph 477 of the Police Regulations shows that the rules in chapter XXXII thereof have been framed u/s 7 of the Police Act. Presumably, they were also made by the Government in exercise of its power u/s 46(2) of the Police Act....

56. Therefore, what the Apex Court observed about making of the Rules u/s 46(2) are the Rules contained in Chapter XXXII of Police Regulations. Chapter XXXII commences with Regulation 477 which clearly reads as under:

477. The rules in this chapter have been made u/s 7 of the Police Act (V of 1861) and apply only to officers appointed u/s 2, Police Act (V of 1861). No officer appointed

under that section shall be punished by executive order otherwise than in the manner provided in this Chapter.

The punishment of gazetted officers is regulated by the conditions of their agreements with the Secretary of State and by rules made by the Secretary of State in Council under Sub-section (2) of Section 96-B of the Government of India Act of 1919. The rule for the punishment of the clerical staff are given in the Office Manual; those for the punishment of village chaukidars in Chapter IX of these Regulations.

57. Chapter XXXII runs up to Regulation 507. Thereafter comes Chapter XXXIII which contained Regulations 508 to 519-A dealing with appeals, revisions, petitions and copies of official documents. The said provision also appears to be statutory for the reason that in Regulation 508 clause I was substituted by U.P. Police Regulations (Amendment) Rules, 1970 and came into force on 18.02.1970. An amendment rule is necessary to be published when a statutory rule is to be amended. However, in the same Chapter there are some provisions dealing with the copies of official documents where in Regulation 519, an amendment was made by a Government Order dated 01.08.1966 and, therefore, it appears that the said provisions are not rules made u/s 46(2) of the Act, 1861.

58. Again Chapter XXXII Regulations 486 and 489 came to be considered in the [The State of Uttar Pradesh and Others Vs. Ajodhya Prasad](#), and following Babu Ram Ypadhya (supra) this Court held that the Police Regulations are not mere administrative directions and rejected the otherwise contention raised on behalf of State of Uttar Pradesh.

59. A third Constitution Bench decision reported in the same volume i.e. [Jagannath Prasad Sharma Vs. State of Uttar Pradesh and Others](#), was decided by majority i.e. 4:1 and Hon'ble Mr. Justice K.C. Das Gupta expressed a contrary view. It is clearly stated in para 5 of the majority judgement that Section 46(2) authorises the State Government to make rules for giving effect to the provisions of the Act, and also to amend, add to or cancel the rules framed. The Government of Uttar Pradesh has framed rules called the Police Regulations under the Indian Police Act. Chapter XXXII containing Regulations 477 to 507 deals with departmental punishment and criminal prosecution of police officers and Chapter XXXIII containing Regulations 508 to 516 deals with appeal, revisions, petitions etc. and thus held the same statutory.

60. The observations made in Jagannath Prasad Sharma (supra) were noticed again in Constitution Bench decision in [State of Orissa Vs. Bidyabhushan Mohapatra](#), However, the provisions up for consideration were those referable to Section 7 of the Police Act dealing with the inquiry and investigation against a police officer.

61. In [Kharak Singh Vs. The State of U.P. and Others](#), came to be considered before a six Judges Bench of the Apex Court. It was noticed and also contended on behalf of the State that the Regulation contained in Chapter XX had no statutory basis but

were merely executive or departmental instructions framed for the guidance of the police officers.

62. [The State of Madras Vs. G. Sundaram](#), where a Constitution Bench of Apex Court had an occasion to consider the pari materia provision contained in Madras Police Subordinate Service (Discipline and Appeal) Rules, 1950 made in exercise of power u/s 10 of the Madras District Police Act, 1859 and held it statutory.

63. A three judges Bench of the Apex Court in [Gobind Vs. State of Madhya Pradesh and Another](#), considered the validity of Regulations 855 and 856 of M.P. Police Regulations and found the same made u/s 46(2) of the Act, 1861.

64. In [State of Uttar Pradesh and Others Vs. Surinder Pal Singh](#), a Constitution Bench held that Regulation 486(i)(3) of the Regulations is applicable only in respect to departmental punishment and inferior police officers and would have no application to the criminal inquiry, investigation etc. against such officer. It approved Special Bench judgement of this Court in [Mahendra Singh Vs. State of U.P. and Others](#),

65. In *Vijay Narain Singh v. Superintendent of Police, Bijnore (U.P.) and Ors.* termination was held to be bad in violation of Regulation 541 without considering as to whether it was statutory provision or not.

66. In *Jasveer Singh (supra)* the Apex Court held Regulation 525 statutory Since Regulation 525 is a part and parcel of Chapter XXXIV of the Regulations which deals with "transfer" it cannot be said that only one part of Chapter is statutory and not rest of the provisions. In my view, therefore, all the provisions under Chapter XXXIV are statutory in view of the law laid down by the Apex Court in *Jasveer Singh (supra)*.

67. Coming to the various decisions relied upon by learned Counsel for the petitioner, decided by Hon"ble Single Judges of this Court, I find that in none of the aforesaid decisions the Hon"ble Court has any occasion to consider the question as has been raised and argued in this case and in all the aforesaid judgements this Court has simply followed the decision of the Apex Court in *Jasveer Singh (supra)*. Therefore, the said judgements had been given in the facts and circumstances of these cases and do not lay down any binding precedent since the issues raised, argued and decided in this case have not been considered in those cases. Various provisions of the Police Regulations, as have been discussed in this judgement, were also not, it appears, placed before the Hon"ble Court and, therefore, the Courts had no occasion to consider the same.

No other point has been raised or argued.

68. In the result, I do not find any merit in this writ petition. The order of transfer does not suffer from any illegality. The writ petition, therefore, lacks merit and is accordingly dismissed.