

Court No. - 5

Case :- WRIT - A No. - 13462 of 2021

Petitioner :- Kuldip Singh

Respondent :- State Of U.P.Through Addl. Chief Secretary/Principal Secretary And 4 Others

Counsel for Petitioner :- Atipriya Gautam,Ishir Sripat,Sr. Advocate

Hon'ble Saral Srivastava,J.

Heard learned counsel for the petitioner and Sri R.S.Umrao, learned Standing Counsel for the respondents.

The petitioner is Radio Inspector and he is presently posted at Police Control Room, Reserve Police Lines, Agra, District Agra. The petitioner is due to retire within two year, i.e., in January, 2023.

By the impugned order dated 08.09.2021 passed by respondent no.4, the petitioner has been transferred from District Agra to Kanpur Outer on the ground that he had forwarded some objectionable post on the Whats-app Group and, accordingly, an enquiry was instituted against the petitioner. In the aforesaid backdrop, the petitioner has been transferred on administrative exigency after seeking approval from the Police Radio Establishment Board.

Challenging the said order, learned counsel for the petitioner has contended that the impugned transfer order is punitive in nature, inasmuch as perusal of the order reflects that the reason for transferring the petitioner is that he had posted some objectionable post/material on the Whats-app Group, thus, the transfer order is not on administrative exigency of service, though, the order recites that in an administrative exigency of service the petitioner has been transferred. He further submits that the petitioner is going to retire in the month of January,

2023 and according to paragraph 11 (X) of the Transfer Policy dated 22.01.2021 endeavour should be made to post an employee in his home district, if the employee is going to retire within two years from the date of transfer, accordingly, he submits that the transfer order is not sustainable.

Learned Standing Counsel would contend that the transfer order has been passed in administrative exigency of service. He submits that the transfer order clearly recites that the petitioner had posted some objectionable post on Whats-app Group and, therefore, for better administration the petitioner has been transferred in administrative exigency of service.

Be that as it may, learned counsel for the petitioner has drawn the attention of the Court towards the enquiry report dated 31.05.2021 conducted by Additional State Radio Officer, Agra Zone, Agra in which the charge against the petitioner is not found proved. Further fact is that the petitioner is due to retire in the month of January, 2023 and only 16 months of service of the petitioner is left.

In view of aforesaid facts particularly, as according to the petitioner, charge with respect to post of some objectionable post on the Whats-app Group in the enquiry is not found proved against him, this Court is of the opinion that the petitioner may be permitted to submit a detailed representation against the transfer order before the respondent no.3-Deputy Inspector General of Police (Operation) (Police Telecommunication), U.P. Police Radio Headquarters, Mahanagar, Lucknow within a period of two weeks from today along with a copy of this order downloaded from the official website of High Court, Allahabad.

In case, any such representation is filed by the petitioner, as directed above, the respondent no.3 shall consider and decide

the same strictly in accordance with law, by a reasoned and speaking order, preferably within a period of two months thereafter.

For a period of three months or till disposal of representation of petitioner, whichever is earlier, transfer order dated 08.09.2021, passed by respondent no.4 and relieving order dated 13.09.2021 passed by respondent no.5 shall remain stayed.

The writ petition is **disposed of** subject to the observations made above.

Order Date :- 5.10.2021

NS