

**Constable Hirendra Kumar Singh Vs. State of U.P. and ors.**

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**Court :** Allahabad

**Decided On :** Feb-11-2003

**Reported in :** 2003(3)AWC2175

**Judge :** Anjani Kumar, J.

**Appeal No. :** C.M.W.P. No. 6252 of 2003

**Appellant :** Constable Hirendra Kumar Singh

**Respondent :** State of U.P. and ors.

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** D.R.S. Chauhan, Adv.

**Disposition :** Writ petition dismissed

**Judgement :**

ORDER

**Anjani Kumar, J.**

1. This petition was heard and dismissed by me on 11th February, 2003 for the reasons to be recorded later on. Now here are the reasons for dismissing the aforesaid writ petition.

2. The petitioner, Hirendra Kumar Singh, who is a constable in the Civil Police, by means of this writ petition under Article 226 of the Constitution of India, has challenged the order of transfer dated 2nd January, 2003 which has been communicated by the Superintendent of Police, Azamgarh by the order dated 13th January, 2003 whereby the petitioner has been transferred from District Azamgarh to District Mirzapur.

3. Learned counsel for the petitioner has challenged the aforesaid order of transfer on the ground that this order has been passed in a mid-academic session and, therefore, in view of the law laid down by the Apex Court in Director of School Education, Madras and Ors. v. O. Karuppa Thevan and Anr., 1994 Suppl (2) SCC 666, which has been relied by this Court in the judgment dated 30th January, 2003 passed in Civil Misc. Writ Petition No. 5370 of 2003, wherein the Apex Court has held as under :

'No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel of the respondent, contended that in view of the fact that the respondent's children are studying in school, the transfer should not have been effected during mid academic term. Although there is no such rule, we are of the view that in effecting the transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of service are not urgent.'

4. In the present case, learned counsel for the petitioner, who has been transferred earlier in the month of June and on the representation being made by the petitioner, his transfer was stayed by the Inspector General of Police till 30th March, 2003 and before the expiry of March, 2003, according to the learned counsel for the petitioner, the petitioner has been transferred by the impugned order. Thus, the order is contrary to the order passed by the Inspector General of Police.

5. A perusal of the impugned order will demonstrate that along with the petitioners, many other Constables have been transferred and the order clearly demonstrates that the same has been passed on an administrative exigencies. The petitioner has not placed any material except the statement in paragraph 22 of the writ

petition which runs as under :

'That the impugned order has been passed in midterm of the sessions and two minor children are studying in Swati Shishu Mandir, Lalganj, Azamgarh. And therefore, on account of transfer order passed in mid term of Session at a distance of about 200 Kilometres, it is not possible to manage his family and children.'

6. The aforesaid statements do not conform to the requirement of the law laid down and relied upon by the learned counsel for the petitioner in Director of School Education, Madras and Ors. v. O. Karuppa Thevan and Anr., 1994 Suppl (2) SCC 666, as there is no averment nor any recital that there is no exigencies of service which has been clearly mentioned in the order of transfer.

7. In view of the law laid down by the Supreme Court in the case of Smt. Shilpi Bose v. State of Bihar, AIR 1991 SC 532, this Court refuses to interfere with the order of transfer.

8. In view of what has been stated above, this writ petition is devoid of merits and it is accordingly dismissed.

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