

Court No. - 20

Case :- WRIT - A No. - 6136 of 2023

Petitioner :- Suresh Kumar Mishra

Respondent :- State Of U.P. Through Principal Secretary, Home,
Lucknow And 5 Others

Counsel for Petitioner :- Ashok Kumar, Chandra Prakash

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties.
2. Petition has been filed challenging order dated 8th June, 2022 whereby petitioner who is working on the post of Head Jail Warden has been transferred from District Jail Kheri to District Jail Mau.
3. It has been submitted that in accordance with petitioner's initial appointment letter dated 30th November, 1995 he was required to be posted only within Lucknow division whereas by means of impugned order, the petitioner has now been posted outside Lucknow division. It is submitted that even otherwise as per relevant government orders, transfer and posting is required to be effected only upon completion of three years service in a particular division whereas petitioner has been transferred prior thereto.
4. Learned state Counsel on the basis of instructions has submitted that condition of petitioner being posted only within Lucknow division pertained to year 1995 during petitioner's initial posting as a unarmed guard and such condition would not be applicable in the present case where petitioner's posting is in view of his promotion on the post of Head Jail Warden. It is submitted that transfer is exigency of service and petitioner has therefore been transferred in accordance thereof.
5. Considering the aforesaid submissions, it is evident that petitioner's initial posting by means of impugned order dated 30th November, 1995 was on the post of unarmed guard stipulating that petitioner could be transferred within the Lucknow division. It is admitted that as of now petitioner is working on the promotional post of Head Jail Warden. No service regulations have been indicated whereas such a bar would continue to operate even on promotional post.
6. So far as submission of learned counsel for petitioner is

concerned that he has not yet completed three years of posting in present division, liberty is granted to petitioner to file a representation before the appropriate authority being opposite party No.3 i.e. Senior Superintendent, Adarsh Jail, Lucknow within a period of four days from today. In case such a representation is made, same shall be considered and decided within a period of ten days thereafter. The said authority shall also consider payment of arrears of salary to petitioner. Till decision on the petitioner's representation, it is provided that he shall not be compelled to join at the place of transfer.

7. With the aforesaid observations, the writ petition stands **disposed of.**

Order Date :- 13.10.2023

prabhat