

Court No. - 20

Case :- WRIT - A No. - 8910 of 2023

Petitioner :- P.N.O. No. 112064264 Constable Alok Singh And 25 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko And Another

Counsel for Petitioner :- Chandra Prakash Singh, Kiran

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard learned counsel for petitioners and learned State Counsel for opposite parties.

2. Petition has been filed challenging orders dated 06.10.2023 and 13.10.2023 whereby petitioners have been transferred purportedly on administrative grounds.

3. Learned counsel for petitioners submits that impugned orders have been passed as a measure of punishment on account of an incident said to have taken place on 30.08.2023 whereunder a female Police Constable was attacked by certain unknown persons. It is submitted that petitioners had absolutely nothing whatsoever with aforesaid incident nor is such the case of opposite parties. It is submitted that in fact a preliminary enquiry was held with regard to aforesaid incident and petitioners were found negligent of their duties without conducting a proper enquiry in the matter. He has placed reliance on a judgment rendered by Hon'ble the Supreme Court in **Somesh Tiwari v. Union of India and others** reported in (2009) 2 SCC 592 to submit that transfer cannot be resorted to as a mode of punishment.

4. Learned State Counsel has been provided written instructions dated 28.11.2023 which are taken on record and as per which submissions of learned counsel for petitioners stand corroborated that petitioners have been transferred in view of aforesaid incident. Learned State Counsel further submits that

petitioners have already joined at the transferred place.

5. Learned counsel for petitioners at this stage submits that since impugned orders have been passed as a mode of punishment, it may not be reflected in the service book so as to prejudice the case of petitioners and they may be granted liberty to file individual representation against the impugned orders.

6. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it is evident that petitioners have been transferred on account of aforesaid incident said to have taken place on 30.08.2023. As such the transfer orders appear to have been passed as a mode of punishment and are not in consonance with the judgment rendered in **Somesh Tiwari** (supra). However, since petitioners have already joined at the transferred place, liberty is granted to petitioners to file individual representations before opposite party no.2 i.e. Additional Director General of Police, Railway U.P., Lucknow against the transfer orders. In case any such representations are filed, the said authority shall consider and decide the same expeditiously within a period of two weeks from the date a certified copy of this order is produced before the said authority along with fresh representations.

7. It is made clear that transfer order shall not be indicated as has been passed as a mode of negligence on part of petitioners, in service book.

8. With aforesaid observations and directions, the petition is finally **disposed of**.

Order Date :- 29.11.2023
kvg/-