

Court No. - 20

Case :- WRIT - A No. - 9178 of 2023

Petitioner :- Umesh Chandra Dubey

Respondent :- State Of U.P. Thru. Chief Secy. Home Deptt. U.P. Lko.
And 4 Others

Counsel for Petitioner :- Manish Misra, Dileep Pandey, Gaurav
Upadhyay, Pranendra Mirdha

Counsel for Respondent :- C.S.C.

Hon'ble Manish Mathur, J.

1. Heard Mr. Manish Misra, learned counsel for petitioner and learned State Counsel appearing on behalf of opposite parties no.1 to 4.
2. In view of order being proposed to be passed, notices to opposite party no.5 stand dispensed with.
3. Petition has been filed challenging order dated 30.06.2023 whereby petitioner has been transferred from District Raebareli to Head Quarter, Lucknow on the post of Sub-Inspector (Ministerial). Also under challenge is order dated 20.11.2023 whereby petitioner has been relieved from service.
4. It has been submitted that the aforesaid relieving is against the provisions of paragraph no. 523 of the U.P. Police Regulations which prescribes a maximum period of ten days for relieving the employee from the date of transfer.
5. Learned counsel for the petitioner has submitted that identical controversy has engaged attention of this Court by referring one order dated 01.01.2020 passed by this Court in **Writ Petition No.36661 (S/S) of 2019; Vijay Kumar Singh & Others vs. State of U.P. & others**. In the case of **Vijay Kumar Singh & Ors.**(supra), there was delay of two months in relieving the petitioner pursuant to the transfer order and this Court considering the order dated 11.11.2016 passed in Writ Petition No.26462 (S/S) of 2016 quashed the impugned order giving liberty to the department to pass fresh transfer order, if it is so required.
6. Learned Standing Counsel has opposed the request of petitioner by submitting that in Writ Petition No.26462 (S/S) of 2016 this Court vide judgment and order dated 11.11.2016 had quashed the transfer order and relieving order for the reasons that there was delay in two years by relieving such petitioner, but in the present case, there is a meager delay of five months and in the matter of police personnel this delay may not be

considered as inordinate delay.

7. It is noticed that in the case of ***Vijay Kumar Singh & Ors.*** (supra), the primary aspect for interference was that exigency of transfer becomes infructuous in case of unreasonable delay in relieving.

8. Although, finding substance in submission of learned Standing Counsel but keeping in view the judgment and order of coordinate Bench of this Court rendered in re: ***Vijay Kumar Singh & Ors.*** (supra) whereby this Court had quashed the relieving order which was issued after the delay of two months, the impugned orders dated 30.06.2023 and relieving order dated 20.11.2023 are hereby quashed by issuance of a writ in the nature of certiorari (Annexure Nos.1 and 2), so far as the same relate to the present petitioner, giving liberty to opposite parties to pass fresh orders, if exigency of service so requires, but strictly in accordance with law.

9. The writ petition is, therefore, **allowed.**

10. No order as to costs.

Order Date :- 29.11.2023

Subodh/-