

Court No. - 6

Case :- WRIT - A No. - 12699 of 2024

Petitioner :- Dinesh Kumar Srivastava Pno. 010820197

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt.

Home Govt. Of U.P.Lko. And 4 Others

Counsel for Petitioner :- M.P. Raju

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard learned counsel for petitioner, learned Standing Counsel for State and perused the material available on record.
2. With the consent of learned counsel appearing for the contesting parties, the writ petition is being finally decided.
3. The instant writ petition has been filed challenging the order dated 19.11.2024, a copy of which is annexure 1 to the petition. By the said order the request of the petitioner for sending him back to the parent department i.e. Civil Police from the Intelligence Department, in which he is presently working, has been rejected.
4. The contention of learned counsel for the petitioner is that the petitioner while working as Inspector in Civil Police had been sent to Intelligence Department. The posting of such person is governed by government order dated 19.06.2019, a copy of which is annexure 2 to the petition.
5. Placing reliance on paragraphs 2(3)(gha) and 2(6) of the government order dated 19.06.2019 the argument of learned counsel for the petitioner is that the said government order categorically provides that the tenure of an Inspector sent to the Intelligence Department would be for a period of five years (wrongly typed as six years as stated by learned counsel for the petitioner). Prior to the said period coming to an end an option would be taken from the personnel concerned as to whether they want to continue in the Intelligence Department and in case an option would be given for continuance they would be continued but in case any person wants to revert back to his parent department then the authorities would immediately act upon the same.
6. The contention of learned counsel for the petitioner is that as per the admitted facts as emerge from perusal of the impugned

order dated 19.11.2024 the respondents admit that the petitioner has been working in the Intelligence Department and has rendered twenty two years of service yet as there is shortage of staff in the Intelligence Department consequently it has not been found feasible to send him back to his parent department i.e. the Civil Police. The contention is that nothing stops the state government from making recruitment in the Intelligence Department in case they have shortage of staff but when the government order dated 19.06.2019 categorically provides the maximum period to which a person can continue in the Intelligence Department and in case of his not opting to continue in Intelligence Department he is to be sent back to his parent department consequently the ground which has been taken by the respondents in the order impugned of shortage of staff cannot be countenanced in the eyes of law and would be contrary to the specific government order dated 19.06.2019 and as such merits quashing on this ground alone.

7. On the other hand, learned Chief Standing Counsel has supported the order on the ground that once there is severe shortage of staff in the Intelligence Department as such it was not found feasible to send back the petitioner to his parent department i.e. Civil Police but as and when the petitioners' turn come in terms of the seniority being maintained in the Intelligence Department he would be sent back.

8. Having heard learned counsel for the parties and having perused the record what emerges is that admittedly the petitioner, an Inspector in Civil Police, has spent a period of 6 years and 10 months in the Intelligence Department as would be apparent from a perusal of order impugned dated 19.11.2024. The government order dated 19.06.2019 provides maximum term in the Intelligence Department for an Inspector which is 5 years. The said government order also provides for sending back the personnel who do not opt to continue in the Intelligence Department on completion of 5 years. Once the petitioner has already spent six years and 10 months in the Intelligence Department and wants to be sent back to his parent department i.e. the Civil Police consequently the order impugned dated 19.11.2024 per which it has been indicated that on account of shortage of staff it is not possible at this stage to send back the petitioner to his parent department and a seniority list would be maintained for sending the said personnel in the future date clearly is not countenanced in the eyes of law and would be clearly against the government order dated 19.06.2019 which has been issued by the respondents themselves governing the posting in the Intelligence Department.

9. Keeping in view the aforesaid discussion, the writ petition is allowed. The order impugned dated 19.11.2024, a copy of which is annexure 1 to the petition, is quashed.

10. The respondent no. 2 is directed to pass fresh order on the claim of the petitioner for sending him back to the parent department i.e. the Civil Police keeping in view the government order dated 19.06.2019. Let such an order be passed within a period of six weeks from the date of receipt of certified copy of this order.

(Alok Mathur, J.)

Order Date :- 20.12.2024

Virendra