



2026:AHC:49832

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 2505 of 2026

Santosh Kumar Singh

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pradeep Kumar Upadhyay
Counsel for Respondent(s)	:	C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Pradeep Kumar Upadhyay, learned counsel for the writ petitioner and Sri R.S. Umrao, learned Standing Counsel for the State.
2. Sri R.S. Umrao, learned Standing Counsel has made a statement at bar that he possesses instructions which he was directed to obtain pursuant to the order dated 19.02.2026 being the instructions dated 08.02.2026 of SSP, Azamgarh according to him, they are self sufficient and he does not propose to file any further affidavit and the writ petition is being decided on the basis of the documents available on record.
3. The case of the writ petitioner is that he was selection on the post of Constable (Ministerial) and he was accorded appointment on 15.07.2002 in the office of Superintendent of Police, Bhadoi and thereafter, he was transferred to District Ghazipur. In the month of September, 2003, the petitioner was transferred in the office of Superintendent of Police, District Ghazipur and he was accorded promotion on the post of Assistant Sub Inspector (M) (Clerk) and transferred to Varanasi and in the year 2014 he was transferred to Accounts Branch in Varanasi and thereafter, he was transferred to PAC in the year 2016 and again he was transferred in the year 2022 in the office of Superintendent of Police, Azamgarh. However, according to the writ petitioner, now the order impugned came to be passed on 17.09.2024 by the Additional Director General of Police, Varanasi Zone, Varanasi whereby the writ petitioner has been transferred from Azamgarh to District Sonbhadra.

4. Questioning the transfer order, the present writ petition has been preferred.

5. Learned counsel for the writ petitioner has sought to argue that the impugned transfer order cannot be sustained even for a single moment. Elaborating the said submission, it is contended that the transfer order dated 17.09.2024 contains a recital that the writ petitioner is being sought to be transferred on the basis of a recommendation dated 15.09.2024 of the Deputy Inspector General of Police, Azamgarh Zone, Azamgarh recommending that the writ petitioner should be transferred to a far place in that regard. It is also the case of the writ petitioner that punishments have been sought to be relied upon which have already been withdrawn.

6. Countering the submission so made by the learned counsel for the writ petitioner, Sri R.S. Umrao, learned Standing Counsel submits that the writ petitioner does not possess any indefeasible right to remain posted at a particular place and as per the instruction so received by him in the entire service record of the writ petitioner, he has been subjected to 3 minor punishment and 8 censure entries and, thus, on the basis of the recommendation and looking into the overall service record, the writ petitioner has been transferred.

7. I have heard the submission so made across and perused the record.

8. Apparently, the writ petitioner happens to be a Police Personnel who has been transferred by virtue of the order dated 17.09.2024 from Azamgarh to District Sonbhadra on the basis of the recommendation letter dated 15.09.2024 of the Deputy Inspector General of Police, Azamgarh Zone, Azamgarh. The order impugned dated 17.09.2024 reads as under.-

"आदेश

पुलिस उप महानिरीक्षक, आजमगढ़ परिक्षेत्र, आजमगढ़ के अर्द्धशासकीय पत्र संख्या: सीओए-पाँच-(03)-2024-एसी-1/19340, दिनांक: 15-09-2024 द्वारा सहायक उप निरीक्षक (लेखा) 022760050 संतोष कुमार सिंह को जनपद-आजमगढ़ से दूरस्थ स्थानान्तरित किए जाने की संस्तुति के दृष्टिगत इन्हें जोनल पुलिस स्थापना बोर्ड, वाराणसी के कार्यवृत्त संख्या:वीजेड-अट्टारह (स० उ०नि०ले० स्था०)-2024-एसा-2, दिनांक: 17-09-2024 द्वारा लिये गये निर्णय के अनुसार जनहित में जनपद-आजमगढ़ से जनपद-सोनभद्र स्थानान्तरित किया जाता है।

(पीयूष मोर्दिया)

अपर पुलिस महानिदेशक, वाराणसी जोन, वाराणसी।"

9. Further, the recommendation dated 15.09.2024 of the Deputy Inspector General of Police Azamgarh Zone, Azamgarh reads as under:-

"कृपया पुलिस अधीक्षक, आजमगढ़ के अर्द्धशां०पत्र संख्या:ज-308/2024 दिनांक: 12.09.2024 द्वारा अवगत कराया गया है कि जनपद आजमगढ़ में नियुक्त सहायक उपनिरीक्षक (लेखा) 022760050 सन्तोष कुमार सिंह, जनपद बलिया के मूल निवासी है तथा जनपद आजमगढ़ में दिनांक 04.08.2022 से सहायक आंकिक के पद पर नियुक्त हैं, इनके द्वारा आये दिन नशे का सेवन कर राजकीय कार्यों में रुचि नहीं ली जाती है और कार्यालय में इधर-उधर घूमते रहते हैं, शाखा प्रभारी आंकिक द्वारा बार-बार समझाने के बावजूद भी इनके कार्य प्रणाली में कोई सुधार परिलक्षित नहीं हो रहा है।

2-सहायक उपनिरीक्षक (लेखा) 022760050 सन्तोष कुमार सिंह के सेवा अभिलेख के अवलोकन से पाया गया है कि इनके द्वारा राजकीय कार्यों के प्रति लापरवाही बरतने पर इनको तीन बार निलम्बित किया गया है, अनेकों बार अनाधिकृत रूप से अनुपस्थित रहने के कारण वेतन रहित तथा 01 बार वृहद दण्ड, 04 बार अर्थ दण्ड एवं 07 बार परिनिन्दा के दण्ड से दण्डित किया गया है। इससे यह स्पष्ट है कि यह कर्मी राजकीय कार्य के प्रति लापरवाह, उदासीन एवं अनुशासनहीन है, जिसके दृष्टिगत पुलिस अधीक्षक, आजमगढ़ द्वारा इनको जनपद आजमगढ़ से दूरस्थ स्थानान्तरण किये जाने हेतु संस्तुति सहित सेवाविवरण उपलब्ध कराया गया है।

3-अतएव पुलिस अधीक्षक आजमगढ़ द्वारा की गयी संस्तुति के दृष्टिगत सहायक उ०नि० (लेखा) 022760050 सन्तोष कुमार सिंह को जनपद आजमगढ़ से दूरस्थ स्थानान्तरित किये जाने हेतु इनका सेवा विवरण संलग्न कर संस्तुति सहित सादर प्रेषित है।"

10. A bare look of the recommendation letter dated 15.09.2024 of the Deputy Inspector General of Police, Azamgarh Zone, Azamgarh would reveal that the transfer order came to be passed based upon the evaluation of the service record of the writ petitioner wherein one major punishment 4 monetary and 7 adverse entry came to be inflicted in the service record of the writ petitioner. There is a recital also in the recommendation dated 15.09.2024 of the Deputy Inspector General of Police, Azamgarh Zone, Azamgarh that the writ petitioner has exhibited a conduct of negligence indiscipline and, thus, he is liable to be transferred. In the opinion of the Court, the considerations which weighed with the authorities while transferring the writ petitioner emanates from the ingredients which are

punitive in nature. In **Somesh Tiwari Vs. Union of India (2009) 2 SCC 592** wherein the following was observed.-

"16. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds - one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal."

11. As the impugned transfer order smacks of the ingredients relatable to misconduct, thus, the same cannot be sustained. At this stage, Sri R.S. Umrao, learned Standing Counsel submits that liberty be accorded to the authorities to pass a fresh order strictly in accordance with law. Apart from the same, since the writ petitioner has already joined the transferred place and thereafter, he has questioned the transfer order, thus, the writ petition is being decided in the following terms.-

(a) the order dated 17.09.2024 passed by Additional Director General of Police, Varanasi Zone, Varanasi is set aside;

(b) liberty is accorded to the authority to pass a fresh order strictly in accordance with law.

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

13. Instructions filed today are taken on record and marked as Appendix 'A'.

(Vikas Budhwar,J.)

March 11, 2026

Rajesh