

State of U. P. and Others

Vs

Jagdeo Singh

Civil Appeal No. 2540 of 1977

(CJI Y. V. Chandrachud, D. P. Madon, Ranganath Misra JJ)

01.05.1984

ORDER

1. The respondent was working as a Station House Officer at the Chandpur Police Station in Uttar Pradesh. It is well-known that Station House Officers are in the overall charge of police stations in which they are attached. Under certain departmental instructions issued in Uttar Pradesh, a Station House Officer is entitled to a special emolument of Rs 15 per month while he is in charge of a police station. By an order dated August 21, 1973, the respondent was transferred from the Chandpur Police Station to the Kotwali Police Station as a Second Officer. He protested against that posting since it involved the loss of the special emolument. Later on, he was transferred to Fatehgarh. He made a representation that he was entitled to be posted as a Station House Officer, Fatehgarh, but that representation was rejected on the ground that his name was not approved for posting as a Station House Officer in the district of Fatehgarh. The respondent was transferred again as a Second Officer to Kanpur. Finding that his representation had been rejected, he filed a writ petition in the High Court of Allahabad asking that the order transferring him as a Second Officer of a Police Station be quashed. The writ petition having been allowed by the High Court, the State of U.P., the Deputy Inspector-General of Police, Kanpur Range and the Senior Superintendent of Police, Kanpur, have filed this appeal.

2. It is clear from paragraphs 40 and 41 of the very counter-affidavit filed in the High Court on behalf of the State of Uttar Pradesh, the appellant herein, that the respondent was found negligent in the discharge of his duties. As a consequence, the respondent was 'reverted' from the post in which he was in charge of the Police Stations and a Misconduct entry was made in his character roll on May 5, 1971. It was because of the finding of negligence against the respondent and the misconduct entry that he was transferred from Fatehgarh to the Fatehgarh Police Station in July 1973 where he was posted as a Second Officer and not as a Station House Officer. The provisions of Section 7(d) of the Police Act, 5 of 1861, are therefore attracted. Section 7(d) provides to the extent material that the Inspector-General or any other officer named therein may award to a member of the Police Force any one or more to the punishments mentioned in clauses (a) to (d) if he is found to have discharged his duties in a careless or negligent manner. Clause (d) of Section 7 speaks of the punishment of removal from any office of "special emolument". The respondent was drawing a special emolument as a Station House Officer of which he was deprived by way of punishment. On this limited ground we confirm the judgment and order of the Division Bench of the High Court of Allahabad dated August 25, 1976.

3. We must make it clear that any and every transfer of a police officer from one police station to another will not amount of punishment, even if it involves the loss of a special emolument. If a police officer is transferred from one charge to another in the ordinary course of administrative

exigencies, the provisions of Section 7 of the Police Act will not be attracted because a transfer simpliciter is not punishment. It is only when the transfer is made by way of punishment, as in the instant case, that Section 7 would come into play.

4. The appeal is accordingly dismissed with costs.

</html