

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1380 of 1998

Allahabad this the Twenty first day of October, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. U.S. Singh, S/o R.B. Singh.
2. Umesh Mishra, S/o R.P. Mishra,
3. Rajesh Kumar S/o Shanker Yadav.

All employed as Surveyor,
Survey of India, Varanasi
Branch.

Applicants

By Advocates Shri S.K. Dey
Shri S.K. Mishra

Versus

1. Union of India through the Surveyor General
of India, H.B. Estate, Dehradun U.P.
2. Sri Rajiv Srivastava, The Superintending
Surveyor, Survey of India, Office of No.92,
Party, Ardali Bazar, Varanasi U.P.

Respondents

By Advocate Shri D.S. Shukla

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The applicant no.1-U.S. Singh, applicant no.2-Umesh Mishra and applicant no.3-Rajesh Kumar, have come up through this O.A. impugning their transfer orders through which they have been transferred to Eastern Circle,

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Calcutta from their present posting at Varanasi, copy of impugned orders have been filed as annexure no.-A-7, A-8 and A-9 to the O.A., all dated 30.11.1998.

2. As per applicants case, they are in the service of respondents and posted at Varanasi right from 01.10.1970, 14.9.1998 and 14.9.1998 respectively. The applicant no.1 is the President of Surveyor Association, Varanasi, applicant no.2 is the Secretary and applicant no.3 is Joint Secretary of the said Association. It has been pleaded that they have been transferred for having taken active part in Union activities and for having sent representations against respondent no.2. It has also been pleaded that it being a mid term transfer, which will adversely affect their school going children.

3. The respondents have contested the case and filed the counter-reply, wherein it has been clarified that at Varanasi there is ^{Sanctioned} strength of only 3 surveyors, against which 6 Surveyors were posted. This position was objected to and, therefore, 3 Surveyors have been transferred to Eastern Circle, Calcutta against the vacancies existed there. It has also been mentioned in the counter-reply that there is no malice or malafides in the transfer order and it was beyond the capabilities of respondent no.2 to approach Surveyor General of India and get the applicants transferred.

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4. Heard, the learned counsel for the parties and perused the record.

5. The applicants have assailed the impugned transfer order, mainly on the ground that they being the Office bearers of the Surveyor Association, they should not have been transferred as per practice and agreement between the employer and employees. The applicants have also taken a ground that the respondent no.2 managed to get them transfer and the transfer order has also been assailed on the ground of being mid term transfer, which may adversely affect the school going children of the applicants.

6. From the arguments and pleadings, it is found that the applicants are not the Office bearers of the Association itself, but ^{Branch.} they are holding posts in the Varanasi ~~Branch~~ of Surveyors Association, consisting of only 6 members, of whom 5 are Office bearers and, therefore, they cannot claim the facilities or direction regarding transfer of the Officer bearers of the Association or the Unions of the employees in the respondents establishment.

7. So far as malafide due to representations against respondents no.2 is concerned, it is found that the resolution adopted by the Surveyors Association, Varanasi are not pointedly directed against the respondent no.2. Moreover, the decision to transfer the applicants has been

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taken by Surveyor General of India, who is 3 steps above to the respondent no.2 in service hierarchy and it will be too much to believe that the respondent no.2 could prevail over the Surveyor General of India.

8. So far as the position of mid term transfer is concerned, it is evident from pleadings of respondents that these transfers had to be made to balance the strength of the staff, for which the transferable employees have to bear. In the present matter, the transfer order is dated 30.11.1998, which ~~to~~ was to be complied by 08.12.1998, to which about 2 years have already passed. In the meantime, the applicants ought to have arranged for education of their school going children.

9. No merit found in the O.A., dismissed accordingly. No order as to costs.

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Member (J)

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