

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1559 of 2003

Tuesday, this the 23rd day of December, 2003

Hon'ble Mrs. Meera Chhibber, J.M.

1. Har Dayal Son of Nathilal,
2. A.K.Sood, Son of Pyare Lal Sood.
3. Deepak Nagar Son of Vishnu Ram Nagar.
4. Hari Babu Son of Chandra Bhan Agrawal.

all working as Upper Division Clerks in
the office of Superintending Engineer,
Agra Central Circle, Central Public
Works Department, Kendralaya, Agra.Applicants.

By Advocate : Shri B.P.Srivastava)

Versus

1. The Union of India,
through the Secretary,
Ministry of Urban Development,
New Delhi.
2. The Director General of Works,
Central Public Works Department,
Nirman Bhavan, New Delhi.
3. The Superintending Engineer,
Coordination Circle (Civil),
East Block D-Level-6, R.K.Puram,
New Delhi.

.....Respondents.

(By Advocate : Shri V.V. Mishra)

O R D E R

This O.A. has been filed by the 4 applicants challenging



their transfer. They have filed M.A. No. 5062/03 seeking permission to file a joint application. Since the grievance and the reliefs sought are similar, the M.A. is allowed.

2. All the four applicants figured at serial No. 1, 2, 3 and 4 of the impugned order dated 09.12.2003 whereby they have been transferred from Agra to Roorkee or Garhwal respectively.

3. It is submitted by the applicants counsel that applicant Nos. 1 and 4 are more than 53 years of age, therefore, their transfer is in violation of Rule 19(g) of C.P.W.D. manual Vol.I wherein it is specifically mentioned that the staff who ^{have} ~~were~~ attained the age of 53 years shall ordinarily not be liable to transfer from one station to another under the normal tenure rule except when the transfer is made to a station nearest ^{to} his home town or the person concerned volunteers for such transfer or he would have been transferred on the basis of length of stay at that station but for his ^{at} attaining the age of 53 years. However, this exemption does not apply where transfer is ^{to be} made on administrative considerations. As far as applicant Nos. 2 and 3 are concerned, ^{also} It is submitted by the counsel that their transfer is in violation of para 21(i) of C.P.W.D. manual Vol.I (pg.15) which for ready reference reads as under:-

"In the case of Agra Central Circle and Chandigarh Central Circle which have Divisions and Sub-Divisions located at different stations, away from Circle headquarters five years transfer rule may be implemented to the extent that there is no change of station involved; in case where change of station is involved change of seat of nature of work of dealing hands in a particular office every five years will be sufficient for the purpose of implementation of five years transfer rule. This however, will not be applicable to the Head Clerks who will be transferred from one station to another every five years it required."

4. Counsel for the applicant further submitted that all the applicants have already given their representations addressed to the Superintending Engineer, which are annexed at page 16 on wards, but till date the same have not been decided. The applicants have also stated categorically in para 4.19 of the O.A. that they have not yet been relieved and are still holding the charge of their posts at Agra.

5. Counsel for the respondents was seeking time to file the reply to the O.A. However, since applicants have already filed their representations to the Superintending Engineer stating therein that their transfer is in violation of CPWD manual. I think, it would be better if their representations are decided by the Superintending Engineer at the first instance because he would be the best person to deal with the points raised by the applicants. Therefore, this O.A. is disposed of at the admission stage itself by giving a direction to the respondent No. 3 to decide the representations of the applicants by passing a reasoned and speaking order within a period of 3 weeks from the date of communication of this order and till such time the respondents shall maintain status-quo as of today with regard to the applicant.

6. With the above direction, this O.A. is disposed off with no order as to costs.



Member-J

shukla/-