

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No; 111/2004.

this, the 26th day of March 2004.

HON'BLE SHRI S.K. NAIK MEMBER(A)

Rajeev Dwivedi, aged about 44 years, son of Sri R.K. Dwivedi, Resident of G-26, Liberty Colony, Sarvodaya Nagar, Lucknow. Presently posted as Assistant Archaeologist, Archaeological Survey of India, Lucknow Circle, Lucknow.

...Applicant.

BY Advocate Shri K.K. Singh.

Versus

1. Union of India through Secretary, Department of Culture Government of India, Shastri Bhawan, New Delhi.
2. Director General, Archaeological Survey of India, Janpath, New Delhi.
3. Director (Administration), Archaeological Survey of India, Janpath, New Delhi.
4. Superintending Archaeologist, Archaeological Survey of India, Lucknow Circle, Ballie Guard Cottage, Golaganj, Lucknow.

... Respondents.

BY Advocate Shri S. Lavania.

ORDER (ORAL)

BY SHRI S.K. NAIK MEMBER(A)

*Deauk* The case was earlier listed on 19th of March

2004, when, the learned counsel for the applicant had made a request for placing the case before another court. While, the case came up for hearing before me today, the learned counsel for the applicant has submitted that the applicant has been transferred during mid session against the guidelines on policy of transfer/posting. He states that the father of the applicant is seriously ill and his spouse is a Central Government employee posted at Kendriya Vidyalaya at Lucknow. The applicant has two minor children. He has further contended that the applicant has been transferred simply to accommodate the request of another employee of the department and therefore, the order has been passed in gross violation of the guidelines on the subject. Learned counsel for the respondents who ~~had~~ was served with the notice by the applicant earlier, has filed his counter affidavit in which the application has been very strongly opposed. It has been stated therein that in view of the settled position in the Courts/Tribunal that they are not supposed to interfere with the order of transfer unless, it is made in violation of statutory provisions or the transfer order is passed malafide or is passed by incompetent authority. He has requested that the Tribunal should not interfere in the matter. Learned counsel for the respondents further stated that the incumbent who has been transferred to Lucknow has since joined and the applicant already stands relieved on 5.9.2003.

2. I have duly considered the pleadings advanced before me by the learned counsel for the applicant, transfer is an incidence of service and ~~unless~~ unless a strong case is made out of such order having been passed malafide, in view of the settled law, it is not proper for the Tribunal to interfere in such matters. In the absence of any Rules, mere reliance on guidelines will not justify interference. No case of malafide is also made out. Accordingly, I do not find any merit in this application and the same is dismissed. No costs.

*7/10/06*  
(S.K. Naik)  
Member(A)