

Original Application No.373/2004.

Lucknow; this day of ~~24~~²⁵ November, 2004.

HON'BLE SHRI M.L. SAHNI, MEMBER (J).

Surendran Nath, aged about 44 years, son of Sri Chandrika Ram, resident of Type-2/19, Kandranchal Colony, Sector-K, Aliganj, Lucknow.

... Applicant.

By Advocate: Shri M.P. Rao.

Versus.

Union of India through its Secretary, Archaeological Survey of India, Department of Tourism of Culture Shashtri Bhawan, New Delhi-11.

2. Director General Archaeological Survey of India, Janpath, New Delhi-11.

3. Superintendent of Archeologist, Archeological Survey of India, Lucknow Circle, Lucknow Bailgurd Corttage, Golaganj, Lucknow.

... Respondents

By Advocate: Shri S.P. Tripathi.

O R D E R

(BY SHRI M.L. SAHNI, MEMBER (J)).


This O.A is directed against the transfer order dated 6.9.2004 whereby, the applicant who has been working as Foreman in Lucknow Division-II has been transferred to Faizabad sub-circle.

2. The allegations ~~has~~ made in the O.A. are that the impugned transfer order has been passed by respondent no.3 with malafide intention and in an arbitrary manner. However, nothing is mention^{ed} ~~what~~ constitutes malafide nor the respondent no.3 has been arrayed ~~in~~ person by the applicant who only submitted that he has requested stay of his transfer order upto May, 2005 because his children~~s~~ are studying and his daughter aged about 10 years is suffering from ill-health and he him-self ^{is also} suffering from ill-health ^{diabetes} ~~and~~ for which treatment is going on ^{at Lucknow} and that he cannot move out of Lucknow. He has placed on record copies of Medical Certificates as well as records regarding education of his children~~s~~.

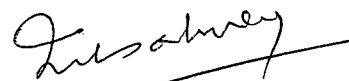
3. According to the respondents, who contested the O.A. ^{it is} stated that disease mentioned is not very serious and the best medical facilities are available even at Faizabad also and applicant can continue his working at transferred place and; that, the family of the applicant can also reside at Lucknow ^{while} ~~and~~ the applicant can look after them very easily as ~~the~~ Faizabad is not ^{very} far from Lucknow. According to them transfer is the exigency of service and the applicnat being a Govt. employee can be transferred to any circle other than Lucknow whereas, the present transfer has been made within the Lucknow circle ^{only.} It is further stated that applicant had worked at Ayodhya during the year 2003 ^{when} ~~because~~ he was deputed for the excavation work on the direction of Hon'ble High Court of Lucknow and he was paid T.A./D.A. and also honorarium as admissible to him and that since he was already discharging his duties at Faizabad during 2003, he can also manage and look after his family from Faizabad, if

he does not want to shift his family at Faizabad. It is also stated that the representation made by the applicant has already been disposed of because his transfer cannot be cancelled solely on the ground that he belongs to the scheduled caste as claimed by the applicant.

4. The respondents have also filed copy of the order dated 30.9.2004 whereby, his application dated 8.9.2004 ~~regarding~~ ^{against} his posting at Faizabad was declined. A copy of the same is annexed as Annexure-A-1 to the Affidavit filed on behalf of the respondents. It is clearly stated therein that request of the applicant was examined and considered but keeping in view of the priority requirements of important conservation work of the monument at Faizabad as well as to look after the excavated site at Ayodhya which was excavated and is being preserved as per direction of the Lucknow Bench of Hon'ble Allahabad High Court cannot be acceded to. Copy of his representation dated 8.9.2004 has been placed at Annexure-4 wherein the applicant had enumerated the grounds ^{for} stay of his transfer upto May 2005 as are ^{also} stated in the present O.A. ~~also~~. Considering the reasons as stated in letter dated 3.9.2004 and the fact that applicant had already worked in 2003 at Ayodhya ^{when} he was paid T.A./D.A. and honorarium ^{it is expected that he} could manage his family affairs at that ^{time} ~~time~~ cannot be allowed to take the plea that now his transfer to Faizabad within the same circle is in any way malafide ^{otherwise it is} and which allegations ^{is} vague and bald without any specific instance of malafide ^{stated against} ~~on the part of~~ any one including respondent no.3. No cognizance of such bald allegations can be taken and since the transfer is the exigency of service therefore there appears to be no reason to interfere ^{with} ~~in~~ the order



passed by the competent authority in this case. I find the O.A. highly bereft of any merit and hence dismissed the same. No order as to costs.


(M.L. SAHNI)
MEMBER (J)

Dated: November, 2004.
Lucknow.
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