

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO. 434/2008

This, the 6th day of February, 2009.

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Harischandra, aged about 46 years, son of Sri Chiranjulal, Resident of Village and Post Haraipur, Tehsil Tirva, District Kannauj, presently posted at Alambagh Cemetery Garden, Alambagh, Lucknow.

Applicant.

By Advocate Sri M.P. Rao.

Versus

1. The Union of India, through its Secretary, Archeological Survey of India, Department of Tourism and Culture, Shastri Bhawan, New Delhi-11.
2. Director General, Archeological Survey of India, Jan Path, New Delhi.
3. Chief Horticulturist, Archeological Survey of India, Horticulture Branch, Eastern Gate, Taj Mahal, Agra.
4. Deputy Superintending Horticulturist, Archeological Survey of India, Horticulture Division-1, Taj Mahal, Agra.

Respondents.

By Advocate Sri K.K. Shukla.

Order

By Hon'ble Dr. a. K. Mishra, Member (A)

This application has been made challenging the order dated 5.6.2008 issued by the Chief Horticulturist of Archeological Survey of India, (ASI), (respondent No. 3) shifting the applicant from Alambagh Cemetery Garden, Lucknow to Nakkar Khana Garden, Bara Imam Bara, Lucknow and also directing him to submit his joining report at Nakkar Khanna Garden through Conservation Assistant and mark his

attendance on the attendance register kept under the custody of Conservation Assistant Grade I.

2. At the time of hearing, the learned counsel for the applicant submitted that the applicant belonged to the Horticulture Branch of ASI and had no relationship with Conservation Branch. Therefore, his transfer to the Conservation Wing was improper and should be set aside. He has specifically sought for a direction to quash the impugned order dated 5.6.2008 passed by the respondent No. 3.

3. The learned counsel for the respondents brought to my notice the fact that the applicant is not being posted in the Conservation Wing of ASI. On the other hand, he has been specifically instructed in the impugned order that he was being shifted from his present place of posting at Alambagh Cemetery garden, Lucknow to Nakkar Khana Garden, Bara Imam Bara. There are gardens attached to important monuments and the gardens are looked after by the Horticulturists. There was nothing improper in shifting the applicant from one Garden at Lucknow to another Garden attached to an important monument, viz Bara Imam Bara, Lucknow. Since the service record of the applicant in the matter of attendance and presence at the place of his duty was very unsatisfactory, he has been asked to sign the attendance register kept under the custody of Conservation Assistant Grade I at Bara Imam Bara. Earlier, in order dated 16.10.2007 of the Deputy Superintending Horticulturist and order dated 12.3.2008 of the respondent No. 3, he had been asked to mark his attendance in the office of Superintending Archeologist, ASI Lucknow Circle. The applicant challenged these two orders in Writ Petition No. 1657 (S/S) 2008 before the Hon'ble High Court Lucknow Bench and the matter is pending for final hearing after exchange of pleadings.



4. Since his grievance against the direction of the administrative authorities asking him ^{to} sign in the attendance register maintained in the office of the Superintending Horticulturist, Archeological is subjudice, he should not have filed the present O.A. on a similar grievance. As a matter of fact, his submission about inconvenience on account of the fact that the office of the Superintending Archeologist is located at some distance from his place of work has been taken care of in the present impugned order by which he has been asked to sign the attendance register maintained by the Conservation Assistant Grade I at the site itself. There is no longer any inconvenience for the applicant to sign the attendance register and submit his duty report.

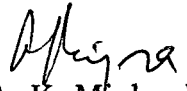
5. The learned counsel for the applicant submits that the applicant is going without salary since the date of his transfer. According to the respondents, non-payment has resulted from the conduct of the applicant himself, who has not joined at the place of posting and has not complied with the legitimate direction of his administrative authority to mark his attendance as per the direction of the competent authority. Since he is not performing any duty at the place of his posting, he is not entitled to any salary for this period.

6. The respondents have adduced many instances of irregular attendance, absence from duty during his service career. Such conduct on his part has led the administrative authorities to ask him to sign the attendance register kept at the site by Conservation Assistant Grade I. His plea that he has been asked to render conservation work for which he has no knowledge or experience is baseless. He has been asked to do his legitimate duty as a horticulturist and look after Nakkar Khana Garden. I do not see any infirmity in this order.



7. The applicant is directed to report at the place of his posting without further loss of time, comply with the direction about marking of his attendance and submit duty report as directed so as to enable the respondents authorities to release his salary in future.

8. In the result, this application is dismissed. No costs.


(Dr. A. K. Mishra)
Member (A)

6/2/09

v.