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Central Administrative Tribunal Lucknow Bench Lucknow

O.A. No. 131/2006.

Lucknow, this the *19th* day of September 2008.

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

1. S. Lal
Aged about 51 years
Son of Jagjev Prasad
R/o A/184 Pranati Vihar
Kanchana Vihari Marg
Kalyanpur, Lucknow.
2. Virendra Kumar
Aged about 52 years r/o A-1129/5
Indiranagar Lucknow.

Applicants.

(By Advocate Sri Arvind Kumar for Sri P.K. Srivastava).

Versus

1. Union of India
Through the Comptroller & Auditor General of India
New Delhi.
2. The Accountant General (A&E-II)
U.P. Allahabad.
3. Afzal Hussain
4. Krishna Kumjar Nigom
5. Akhilesh Kumar Srivastava.
6. Anil Kumar Jain.
7. Pankaj Saxena.
8. Vinjay Sankar Verma.
9. Smt. Ranu Kapoor.
10. Manoj Srivastava.

Opposite parties 3 to 9 all Senior Accountants/ Opposite Party No.
10 Clerk C/o Accountant General (A&E) U.P. Allahabad.

Respondents.

(By Advocate: Sri Prashant Kumar and Sri Anurag Srivastava for Sri Anil Kumar).

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Order

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

This application was originally made by 7 employees of the respondent No. 2 against his order transferring them from Lucknow to Allahabad. From the record, it is seen that except one, namely, applicant No. 4, all the rest had joined at the Allahabad office of Respondent No.2. Subsequently, applicants No.1, 2 ,4 ,5 and 6 have withdrawn from the present litigation challenging the transfer order. Now, we are left with the applicants No. 3, Sri S.Lal and 7 Virendra Kumar who are pursuing this application.

2. The counsel for the applicant raised the following points at the time of hearing:

(i). The respondent No. 2 does not have the competence to transfer the applicant from one station to another. According to him, this power is vested with AG I only. The counsel for the respondents explained that AGI and AG II are officers of the same rank and exercise the same powers. Admittedly, the applicants, were under the administrative control of AGII. As such, the contention that AG I had administrative powers to transfer them is without any basis. As a matter of fact, it is AG II who had originally permitted the applicants to work at Lucknow.

(ii) The second contention made by th counsel for the applicants is that the transfer order, though ostensibly has been made in public interest, is, in fact, meant to accommodate the requests of the respondents No. 3 to 10 who were working at Allahabad and had represented for transfer to Lucknow. There was no public interst involved in up-rooting the applicants from Lucknow where they had been working for a long time just to accommodate another group of employees. The



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normal practice is to accommodate requests of employees for transfer to a specific place only when substantive vacancies arise at that place. Never before such wholesale transfer of employees from one place to another had been made by the respondent No. 2 in order to accommodate the request of employees working at Allahabad. Further, the wife of applicant No. 3 is working at Lucknow and the transfer order was made during mid- session which disrupted the study of the children of the applicants. In reply, the counsel for the respondents submitted that the transfer order was made in pursuance of the circular dated 25.3.2008 of CAG which instructed that no member of staff should be kept in the same wing for a period exceeding 5 years except in exceptional circumstances for which, specific orders of AG should be taken. Admittedly, the applicants had stayed at Lucknow for a very long time. The Lucknow unit constitutes one wing of AG and the other wing are located at Allahabad. Therefore, the applicants had to be transferred to Allahabad in public interest and there was no irregularities in making such transfer orders. In the original counter affidavit, it was mentioned that all the applicants except No. 4 had been working at Lucknow since 23.12.1985. Applicant No. 4 joined at Lucknow on 14.3.1990. Therefore, all of them had stayed at Lucknow for more than 10 years. Since we are now considering the case of only respondents No 3 and 7, the admitted position is that they had stayed for a long time at Lucknow. Although, there were, others who had stayed for more than 10 years, it was not in the interest of administration to transfer all of them at one stroke. Therefore, in the first phase, only 7 employees were transferred.

3. The settled position of law is that transfer is an incidence of public service. No government servant has a right to continue at a place of posting for as many years as he likes. Their grievances relating to spouse



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working at the place of previous station or children's education could be put forth in a representation before the competent authority, but it is for the competent authority to take the decision keeping the interest of administration upper-most in his mind.

4. I find that most of the present applicants have withdrawn their applications and the remaining applicants have joined at Allahabad since long. This application has become infructuous. In any case, for the reasons already mentioned in the preceding paragraphs. I do not find any merit in this application, which is accordingly dismissed. No costs.


(DR. A. K. Mishra)
Member (A)

v.