

(2006) 03 AHC CK 0049
In the Allahabad High Court
Case No : Special Appeal No. 190 of 2006

Executive Engineer, Electricity Distribution Division (EDD) and Others APPELLANT

Vs

Satya Prakash Saxena RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

Citation : (2006) 3 AWC 2487 : (2006) 110 FLR 320 : (2006) 2 UPLBEC 1649

Hon'ble Judges : Ajoy Nath Ray, C.J.; Ashok Bhushan, J

Bench : Division Bench

Advocate : R.D. Khare, for the Appellant; Manoj Kumar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Ajoy Nath Ray, C.J. and Ashok Bhushan, J.—This is a transfer matter. In the writ Court the Hon'ble Single Judge on the 3rd of January, 2006 has passed an order quashing the transfer order and allowing the appellant to transfer the writ petitioner to some other place as directed by the first Court.

2. The appellant takes a preliminary objection that the writ Court should not have interfered in the transfer matter at all because of an order passed by Supreme Court of India on 24.2.2005 in Writ Petition (C) No. 79 of 1997 (Suresh Chandra Sharma v. Chairman, U.P.S.E.B. and Ors.).

3. In that order the Court commenced monitoring transfer of employees of some eight Power Corporations so as to enforce transparency therein.

4. The following five specific directions were:

1. No Minister of the State of U.P. nor any Government Officer shall interfere with the transfers postings of the officers in any of the Corporations named above.

2. All postings transfers of the officers staff of the aforesaid Corporations shall be monitored by an independent committee consisting of the following persons.

(i) Shri S. Venktanarayanan (IAS), Retd., Former Chairman, National Power Finance Corporation, as Chairman;

(ii) A member of the U.P.S.C. to be nominated by the Chairman of the U.P.S.C.

(iii) A nominee of the Chairman of the Central Electricity Authority,

(iv) A nominee of the Comptroller and Auditor General; and

(v) A nominee of the Central Vigilance Commission.

3. All proposals for transfers postings of officers and staff of the aforesaid Corporations should, before finalization, be placed before the independent committee which shall examine and approve the transfers postings on merits and in the light of the guidelines for transfer policy of officers (see at Page 495 of Volume 1A of the Paper Book).

4. No transfer posting which is disapproved by the said committee shall be made by the Board of directors of any of the aforesaid eight Corporations.

5. The Committee shall make a report to this Court containing its observations with regard to the transfer postings of officers and staff, if any, made for the year 2005, after all such cases have been considered and decisions thereupon taken.

5. The case of the appellant is that in this case the transfer was approved by the Committee.

6. The order specifically provides that if the Committee does not approve a transfer, it cannot be made.

7. The order does not specifically provide that if the Committee approves a transfer, then it shall be made.

8. However, unless this clause is read into the order the Committee would lose the supervening power.

9. If this clause is read into the Committee's power, then an approval of the Committee becomes unexaminable excepting by itself or the Supreme Court of India.

10. On this simple basis, in our opinion, the writ petition could not but be dismissed.

11. The appeal is allowed. The impugned order is set-aside. The writ petition is dismissed.