

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 585 of 2007 (S/S)

1. Manoj Joshi S/o Shri J.P. Joshi
Presently posted as Sr. Field Assistant,
Area Headquarter, Sashastra Seema Bal,
Bhatkot, Pithoragarh.
2. Anil Kumar Thapliyal
Presently posted as Sr. Field Assistant,
Area Headquarter, Sashastra Seema Bal,
Dharchula. A.O. Office Bhatkot.
Pithoragarh.

..... Petitioners

Versus

1. The Director General
Sashastra Seema Bal
Block V (East)
R.K.Puram, New Delhi 110 066.
2. Inspector General
Sashastra Seema Bal, FTR, HQRS,
Lucknow, U.P.
3. Deputy Inspector General
Sashastra Seema Bal
Ranikhet, District Almora, Uttarakhand.

..... Respondents

Mr. S. Dhulia, Sr. Advocate assisted by Mr. Sanjay Bhatt, Advocate
for the petitioners.

Mr. N.S. Pundir. Central Govt. Counsel for the respondents.

Hon. Prafulla C. Pant, J.

Heard learned counsel for the parties.

- 2) By means of this writ petition, the petitioners have
challenged the impugned order dated 11.04.2007 and order

dated 24.04.2007 (copies Annexures – 4 & 5 to the writ petition), whereby the petitioners are transferred to various places.

3) The petitioners are serving with S.S.B. (Sashastra Seema Bal), earlier known as special Service Bureau.

4) Learned Central Government Counsel raised a preliminary objection by filing a short counter affidavit stating the petitioners are working as civilians with S.S.B. and have remedy to approach the Central Administrative Tribunal by filing O.A. for redressal of their grievances. On behalf of the respondents reliance has been placed in the decision given by the Apex Court in ***L. Chandra Kumar Vs. Union of India and others; reported in (1997) 3 Supreme Court Case 261***. Also, the judgment and order dated 26.02.2007, passed by Division Bench of this Court in Writ Petition No. 260 (S/B) of 2006, is referred.

5) Learned Senior Advocate appearing for the petitioners argued that the Administrative Tribunals Act 1985, (hereinafter referred to as the Act) is not applicable to the petitioners, as Section 2 of said Act makes it clear that the provision of the Act are not applicable to any member of armed forces of Union. However, sub-clause (iii) of clause (b) and clause (c) of sub-Section (1) of Section 14 of the Act provide that in the cases of civilian working with the Defence Services, they have remedy with the Central Administrative Tribunal.

5) Therefore, in view of the provisions contained in sub-clause (iii) of clause (b) and clause (c) of sub-Section (1) of

Section 14 of the Act read with L. Chandra Kumar's case (supra), and considering the fact that in the short counter affidavit, it has been stated on oath that the petitioners are civilians, this Court is not inclined to interfere with the impugned order of transfers. Accordingly, the writ petition is dismissed with the observation that the petitioners may seek their remedy by filing O.A. before the Central Administrative Tribunal.

(Prafulla C. Pant, J.)

Dt. October 31, 2007.

H. Negi