

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA No.172/2009 & C.M. Nos.5694, 5696 OF 2009**

UDAI BHAN TIWARI & ORS. Appellants
Through: Mr. S.D. Singh, Advocate.

versus

UOI & ORS. Respondents
Through: Mr. Virendra Kumar Singh,
Adv. for respondent No.1.
Mr. Ajay Kapur with Mr. G.
Panmei & Ms. Savita Rajdor,
Advocates for respondent
No.2/ITDC.
Mrs. Francesca Kapur,
Adv. for respondent No.4.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE NEERAJ KISHAN KAUL

ORDER
25.05.2009

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1. The present appeal arises out of impugned order dated 18.3.2008. The appellants before us had moved an application in a disposed of writ petition. The said application was dismissed. Consequently, the present appeal has been filed.

2. Briefly the facts of the case are that the appellants (original petitioners in the writ petition) had filed a writ petition where their grievance was to the legality of ITDC decision to handover the management of the Hotel Ashok, Varanasi. The appellants had also prayed for a direction that they should be posted to some other unit of the ITDC. By judgment and order dated 1.5.2006, the writ petition was disposed of. It was noted in the said judgment that as far as the first issue was concerned, the correctness of the policy decision was pending consideration by the Supreme Court under Article 139 A

which had been invoked to consolidate and transfer writ petitions pending before various High Courts. As far as the second issue was concerned, the court felt that though the appellants had established that they had represented for their transfer, there was no corresponding obligation on the ITDC to accede to the request. The court refrained from giving any directions on this issue, however, upon a submission made by the newly added transferee, they were required to issue letters of appointment and further grant ten weeks' time to the appellants to report for duties at Maharaj Ganj, where the unit was located. It was stated before the learned single judge by the appellants that they had reported to the unit in compliance with the court orders but were prevented from taking charge of their posts.

3. It is pertinent to mention here that the appeal filed by the appellants against the judgment dated 1.5.2006 was rejected on 17.7.2006. The learned single judge rightly held that the claim for absorption in some unit of ITDC or entitlement for VRS as was sought, stood concluded. The learned single judge also rightly observed that as far as the reliefs against the transferee were concerned, the court had merely recorded their claim to accept the appellants in their employment and had made consequential arrangements. It was premised by way of concession since on the merits, the appellants' reliefs had been declined.

4. Even today during the course of hearing the counsel for the transferee submitted that they were willing to permit the appellants to join duty at the Maharaj Ganj unit, however, counsel for the appellants submitted that they were not inclined to do so.

Further, we also attempted to explore a settlement whereby some lump sum payment could be made to the appellants in full and final settlement of the disputes, however, even this was not acceptable to the appellants.

5. In view of what is stated hereinabove, we find no infirmity in the findings of the learned single judge. Moreover, the application could not have been moved by the appellants in a disposed of writ petition. The appeal must fail and is accordingly dismissed. However, it is open to the appellants to raise their disputes in accordance with law before the appropriate forum. All pending applications stand disposed of as well. It is ordered accordingly.

CHIEF JUSTICE

NEERAJ KISHAN KAUL, J.

MAY 25, 2009
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