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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1732/2002

Monday, this the 8th day of July, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

K.K. Dahiya
S/O Sh. Ranbir Singh
R/O 29/31, Mali Road
New Delhi

..Applicant

(By Advocate: Shri S.K.Gupta for Shri B.S.Gupta)

Versus

Union of India
through its
Secretary
Ministry of Home Affairs
North Block, New Delhi

..Respondent

O R D E R (ORAL)

Shri S.A.T. Rizvi:

Vide modified order issued on 15.1.2002 (A-2), the applicant, who is an UTCS Officer, was posted as Assistant Commissioner/Deputy Assessor and Collector in Municipal Corporation of Delhi (MCD) on deputation basis initially for a period of one year. He was accordingly appointed as Assistant Commissioner/Deputy Assessor and Collector in MCD on deputation basis w.e.f. 25.1.2002 (A-4). Vide order dated 9.5.2002 (A-1), i.e., much before the expiry of the initial period of deputation of one year, the applicant has been transferred by the Ministry of Home Affairs, which is the cadre controlling authority of the UTCS, from the Govt. of NCT of Delhi to Lakshadweep Administration. The aforesaid order has been challenged on the basis that being on foreign service in terms of FR-7 (A-6), he could not be reverted prematurely in terms of the terms and conditions for reversion of deputationists mentioned in Appendix-5 which deals with

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deputation within India. The relevant rule, finding ^{place} at page 55 of the paper book, runs as under:-

"9. Premature reversion of deputationist to parent cadre

Normally, when an employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving advance intimation of reasonable period to the lending Ministry/Department and the employee concerned"

2. The learned counsel appearing for the applicant submits that no orders have been passed for reverting the applicant from his deputation with the MCD and, therefore, the MHA could not have passed the impugned orders of transfer. Further, according to him, even reversion from deputation could not be resorted to without first giving a reasonable opportunity to the lending Department, namely, Govt. of NCT of Delhi/MHA, which ^(latter) is the cadre controlling authority. Without being formally returned to the parent/lending Department, the MHA could not have exercised the power to transfer the applicant from under Govt. of NCT of Delhi ^{under} to the Administration ^{of} Lakshadweep.

3. Aggrieved by the aforesaid transfer order, the applicant has filed a detailed representation before the MHA on 20.5.2002. There has been no response to the aforesaid representation. The applicant, though still working in the MCD, is likely to be relieved on transfer any time.)

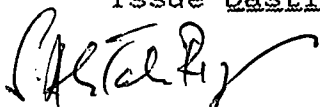
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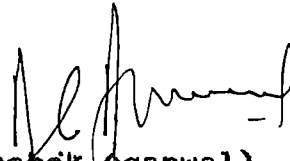
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4. Having regard to the submissions made by the learned counsel and the aforestated facts and circumstances, we find it in order to dispose of the present OA at this very stage even without issuing notices with a direction to the respondents to consider the aforesaid representation and also treat the present OA as an additional representation and pass a reasoned and a speaking order in the matter at the earliest possible and in any event within a period of ten weeks from the date of receipt of a copy of this order. We direct accordingly. We further direct that until the orders as above have been passed, the impugned order dated 9.5.2002 (A-1) will not be implemented, insofar as it relates to the applicant.

5. The present OA is disposed of in the aforestated terms at the admission stage itself.

Issue Dasti.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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