

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1374/99

New Delhi: Dated this the 14th day of December 1999

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

H. C. Dhawan,
S/o Shri B. L. Dhawan,
R/o 56-V Lodi Road Complex,
New Delhi-3

..... Applicant

(By Advocate: Shri D. C. Bhra)

Versus

1. Union of India,
through
the Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan,
CGO Complex,
Lodi Road,
New Delhi - 3

2. The Chief Secretary,
Govt. of NCT of Delhi,
5, Shannath Marg,
Old Secretariat,
Delhi - 54.

3. The Principal Secretary
(Services)
Govt. of NCT of Delhi,
5, Shannath Marg,
Old Secretariat,
Delhi - 54

..... Respondents

(By Advocate: Shri Rajender Pandita for R-2 & 3)
Shri VSR Krishna for R-1.

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 6.4.99 (Annexure-A/1) as illegal and unconstitutional and seeks a direction to allow him to continue to function as Conservator of Forests and Chief Warden of Wild Life with Govt. of NCT of Delhi in terms of GOI's letter dated 12.4.99 and to treat the interregnum as period spent on duty.

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2. Admittedly applicant is an Indian Forest Service Officer belonging to 1977 batch of Arunachal Pradesh-Goa-Mizoram UT joint cadre. By Ministry of Environment & Forest's order dated 15.5.98 (Ann. -A/9) applicant was posted as Conservator of Forests, Delhi which was further confirmed by Govt. of NCT of Delhi's own order dated 6.7.98 (Annexure-A/10).

3. By impugned order dated 6.4.99 (Annexure-A/1) issued by Govt. of NCT of Delhi, applicant has been relieved from his post as Conservator of Forests, with the direction to report back to M/O Environment & Forests, GOI for further instructions, and the Dy. Conservator of Forests (West) Shri M.S. Negi has been directed to look after the work of Conservator of Forests till further orders, in addition to his own duties.

4. GOI by their reply dated 12.4.99 (Annexure-A/12) to Govt. of NCT of Delhi order dated 6.4.99 have stated that the Ministry of Environment & Forests is the Cadre Controlling Authority for the IFS and also acts as the State Govt. as far as postings of cadre officer in various segments of AGM UT cadre are concerned. They have expressed surprise that the transfer order of applicant has been issued without consulting the Ministry of Environment & Forests. It has been pointed out that ^{applicant was posted in NCT of Delhi against a} sanctioned cadre post after he had served HICFRE or Central deputation, and under the existing guidelines he could be considered for a posting under GOI or under any other constituent unit of AGMUT Joint Cadre after he served under Govt. of NCT of Delhi for his normal tenure. Accordingly it was requested that the

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aforesaid order dated 6.4.99 be withdrawn to enable applicant to discharge his duties as Conservator of Forests and Chief Warden of Wild Life under Govt. of NCT of Delhi.

5. In the reply dated 29.4.99 (copy taken on record), the Govt. of NCT of Delhi have stated that it is the prerogative of the State Govt. to assess the suitability of a particular officer, and to accept or reject a particular officer once the State Govt. finds that matters are going beyond their control. It is stated that it had become difficult to run the department because of applicant's stubborn attitude, his insubordination, disobedience of orders of his superiors, and his silence on sensitive issues specifically pointed out to him in writing. It is stated that allegations against applicant had been received, and it was proposed to refer specific cases to Ministry of Environment & Forests for initiating major penalty proceedings against applicant, but in order to maintain administrative propriety, proper control and supervision, it was not advisable to withdraw the relieving orders of applicant.

6. By the Tribunal's order dated 29.6.99, while rejecting applicant's prayer for an interim direction to respondents not to give effect to their order dated 6.4.99, Government of India in consultation

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With Govt. of NCT of Delhi were called upon to take immediate steps to ensure that applicant was given an appropriate posting commensurate with his rank and status in accordance with rules and circumstances and he should also be paid for the interregnum pending disposal of the O.A. without prejudice to such departmental action as respondents consider necessary to be taken against him with respect to the alleged acts of misconduct. Those interim orders were extended from time to time. Indeed by order dated 29.10.99 the Tribunal directed Respondent No. 1 to provide applicant a suitable posting immediately.

7. On 7.7.99 the implementation of the interim order dated 29.6.99 appears to have been discussed between officials of Ministry of Environment and Forests and those of Delhi Government. A perusal of the minutes of that meeting (copy of minutes annexed with reply of Respondent No.1) reveals that they reiterated their respective stands. It was decided in that meeting that Delhi Government would pay applicant his salary for the period from 7.4.99 till the date he was posted and assumed charge at some station to be decided by Ministry of Environment & Forests by making appropriate administrative arrangements.

8. On 15.11.99 applicant filed M.A. No. 2436/99 praying for vacation of the order dated 29.10.99 directing Respondent No.1 to provide a suitable posting to applicant immediately.

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9. MA No. 2436/99 was heard on 26.11.99 by a Single Bench, and as certain points of law were raised which required consideration by a Division Bench, the matter was ordered to be listed before an appropriate Division Bench and meanwhile the status quo was ordered to be maintained.

10. We have heard applicant's counsel Shri D. C. Whrao counsel for respondent No. 1, Shri VSR Krishna and counsel for respondents No. 2 and 3, Shri Rajendra Pandita. We have perused the material on record and given the matter our careful consideration.

11. Respondents No. 2 and 3 admit that the Ministry of Environment is the cadre controlling authority in case of Indian Forest Service. It is not denied that a joint cadre authority has been constituted for IAS, IPS and Indian Forest Service Officers of AGMUT cadre, the composition of which has been specified by Notification dated 25.4.95 (Annexure-A/7). Respondent No. 1 has stated that in the interest of proper management and administration of the joint cadre and as per agreement between constituent units of Joint AGMUT Cadre, powers have been delegated to Respondent No. 1 to decide inter alia in matters of posting/transfer of cadre officers from one segment to another, and if in the exercise of this delegated power that Respondent No. 1 decides postings/transfers of Cadre Officers, Respondents No. 2 and 3 appear to contend that the delegation of powers of JCA in the matter of postings and transfers of AGMUT cadre officers to Respondent No. 1 has not been approved by Respondent No. 3, but further submit that the guidelines

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issued by Respondent No.1 in the matter of postings/transfer of AGMUT cadre officers was for the purpose of achieving an uniform approach in the management of the Joint Cadre and are intended to be operated in the normal course of cadre management, and not in a situation when the notice of a constituent unit require consideration and implementation. It is contended that applicant was relieved by Respondents 2 and 3 and asked to report to Respondent No.1 because of serious allegations against him, including violation of Hon'ble Supreme Court orders; by way of illegal construction in the Ridge Reserve Forests; ordering irregular promotion of Forest Guards; repeated insubordination and disobedience of orders of superiors.

12. These allegations are stoutly denied by applicant's counsel who contends that applicant is being deliberately and mala fide prosecuted and harassed merely for being an honest and hardworking officer who refuses to succumb to the machinations of certain vested interests.

13. We must make it clear here, that at this stage we are concerned only with the vires of order dated 6.4.99 issued by Govt. of Delhi. In our view there is considerable merit in the stand of Respondent No.1 that they admittedly being the Cadre Controlling Authority and being entrusted with the task of deciding the postings/transfers of AGM UT Cadre Indian Forest Service Officers should have been consulted by Respondents 2 and 3 before issue of the impugned order. While it was open to Respondents 2 and 3 to have adjusted applicant to an appropriate post within the territorial jurisdiction of Govt. of NCT. The action to relieve him of duties, with a direction to report

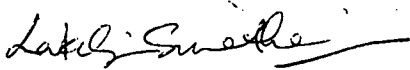
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to the Cadre Controlling Authority viz. Ministry of Environment & Forests for further posting as contained in impugned order dated 6.4.99, could have been taken only after prior consultation with the Ministry of Environment & Forests.

14. In the result, the impugned order dated 6.4.99 is quashed and set aside. However, in the light of the allegation of serious misconduct said to have been committed by applicant as mentioned by Respondents 2 and 3 in their reply, it will be open to Respondents 2 and 3 to initiate appropriate departmental action against applicant in accordance with rules and instructions ^{if so advised}. Furthermore, in view of the serious reservations expressed by Respondents 2 and 3 regarding the continuance of the applicant as Conservator of Forests, Delhi, it will be open to Respondent No.1 to arrange forthwith a suitable alternative posting for applicant.

15. The OA is disposed of in terms of para 14 above. The interim orders passed on 16.11.99 for maintenance of status quo are vacated. No costs.


(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)


(S. R. ADIGE)
VICE CHAIRMAN(A).

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