

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No.2836/99

New Delhi: this the 14th day of February, 2000.

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

HON'BLE MR.KULDIP SINGH, MEMBER(J)

Major P. Gopalakrishnan,
S/o Late Mr.Kottiyil Chami Nair,
Deputy Director, Army Postal Service,
Army Headquarters,
New Delhi. Applicant.

(By Advocate: Shri P.V.Dinesh)

Versus

1. Union of India
through Secretary,
Oak Bhawan,
Ministry of Communications,
New Delhi-1
 2. Ministry of Defence,
through Secretary,
Ministry of Defence,
New Delhi.
 3. The Chief Of Army Staff,
Army Head Quarters,
New Delhi-1.
 4. Army Postal Service,
through
Addl. Director General,
Army Postal Service,
New Delhi.
 5. Major K.K.Srivastava,
Addl. Director General,
Army Postal Service,
Army Head quarters,
New Delhi
- Respondents.

(By Advocate: Shri A.K.Bhardwaj)

ORDER

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

Applicant impugns respondents' order dated 4.10.99
(Annexure-A1) repatriating him to his parent organisation
viz. Department of Posts, and for a direction that he
is not liable to be repatriated till his retirement

except on disciplinary grounds or invalidation or on request.

2. This OA had initially come up before a Single Bench on 28.12.99 on which date notice was ordered to be issued to respondents and in the meantime status quo was ordered to be maintained. The next date fixed was 14.1.2000. Meanwhile on 3.1.2000 an MA bearing No.1/2000 was moved by respondents in which a prayer was made for vacation of the status quo order. In this connection, it was submitted by respondents' counsel that applicant being a Major in the Indian Army was a member of the armed forces of the Indian Union, and hence did not come within the Tribunal's jurisdiction in terms of Section 2 A.T.Act. Applicant's counsel was not present on 3.1.2000. After hearing respondents' counsel, interim orders were modified such that the impugned order dated 4.10.99 was made subject to the outcome of the OA. The case was ordered to be listed on 14.1.2000 as originally directed.

3. On 14.1.2000 applicant's counsel was granted a short adjournment to establish that applicant was actually a civilian officer who was deputed to the Army Postal Service as claimed by him, and the next date fixed was 19.1.2000, by which date respondents are also called upon to file reply.

4. Respondents have filed their reply, and both sides have been heard.

5. From Postal Department's order dated 20.9.99 (Annexure IV to respondents' reply) it is clear that applicant is an officer of Postal Service Group 'B' who is only on deputation to Army Postal Service. Under the circumstance, it is clear that the Tribunal has jurisdiction

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to deal with this case under Section 14 A.T.Act, and respondents' preliminary objection that applicant being a member of the Armed Forces of the Union is outside the Tribunal's jurisdiction in terms of Section 2 A.T.Act is rejected.

6. The main grounds advanced by applicant against the impugned order dated 4.10.99 are that he has an unblemished record of service in Army Postal Service for 29 years and that repatriation at this stage will affect his pension, because if he is allowed to continue in APS till his superannuation he would be eligible for military pension and other benefits incidental to military service. Applicant has contended that the repatriation which has been ordered at the instance of Respondent No.5, who has been impleaded in his personal capacity is tainted by malafides, because Respondent No.5 is inimically disposed towards him, for having highlighted certain irregularities, and he has being singled out for repatriation, without giving reasons, although many Civilian Officers similarly deputed to APS with even longer terms of deputation have not been repatriated.

7. The length of applicant's period of deputation with respondents, or the fact that applicant's repatriation at this stage would affect his pension gives applicant no enforceable legal right to compel respondents to retain him on deputation. It is well settled that a deputationist has no enforceable legal right to compel the host department to continue to retain him on deputation.

8. In so far as allegations of malafide are concerned, applicant has not been able to furnish materials to satisfy

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us that he has been reverted only on account of the alleged enmity of Respondent No.5.

9. The DA therefore warrants no interference. It is dismissed. *No work*

Kuldip Singh
(KULDIP SINGH)
MEMBER (J)

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

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