

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No-1111/98
T.A.No.

199

DATE OF DECISION 28.6.99

Shri Kamal Singh

....Petitioner

Shri M.L. Sharma

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors.

....Respondent

Shri Bhaskar Bhardwaj proxy
for Shri Arun Bhardwaj with
Shri D.S. Mahendru.

....Advocate for the
Respondents.

CCRAM

The Hon'ble Shri S.R. Adige, Vice Chairman (A).
The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

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- 1. To be referred to the Reporter or not? YES
- 2. Whether it needs to be circulated to other Benches of the Tribunal? No.

J. Swaminathan

(Smt.Lakshmi Swaminathan)
Member(J)

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Central Administrative Tribunal
Principal Bench

O.A. 1111/98

New Delhi this the 28 th day of June, 1999

Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Sh. Kamal Singh
(Inspector) D-3296,
R/o B-63, Kondli Extension,
Delhi-96.

... Applicant.

By Advocate Shri M.L. Sharma.

Versus

1. Union of India,
Ministry of Defence through
Secretary,
South Block,
New Delhi.
2. Director,
Institute for Systems Studies and
Analyses,
Department of Defence Research
and Development,
Ministry of Defence,
Matcalfe House,
Delhi.
3. Govt. of NCT of Delhi,
through Secretary (Home),
5, Sharnath Marg,
Delhi-54.
4. Commissioner of Police,
Police Headquarters,
MSO Building,
I.P. Estate,
New Delhi.
5. Deputy Commissioner of Police,
Police Headquarter (1),
MSO Building, I.P. Estate,
New Delhi.
6. Deputy Commissioner of Police,
Crime and Railways (Computer Section),
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.

... Respondents.

By Advocate Shri Bhaskar Bhardwaj proxy for Shri Arun
Bhardwaj, with Shri D.S. Mahenderu.

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O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the orders passed by Respondents 3 and 5 i.e. the Govt. of NCT through the Commissioner of Police repatriating him to his parent department i.e. the Department of Defence Research and Development, Ministry of Defence dated 25.5.1998 and 26.5.1998. In pursuance of these orders, Respondent 2 i.e. the Ministry of Defence have stated that the applicant is presently working with them since 4.6.1998.

2. The applicant has filed this O.A. with a prayer that the impugned orders repatriating him to his parent department may be quashed and set aside and Respondents 4 to 6 be directed to permanently absorb him against the post of Computer Operator (Inspector) in which post he had been working earlier.

3. The brief facts of the case are that the applicant is a regular employee of Respondent 2 as Senior Scientific Assistant. According to him, he applied against the advertisement appearing in the Newspaper in December, 1990 issued by Respondent 4 for the post of Computer Operator (Inspector) against the post reserved for SC candidate to which category he belongs. He has submitted that since he was eligible and found suitable by the Selection Board at the interview held on 16.4.1991, he was selected for the post of Computer Operator (Inspector) in Delhi Police, which was on deputation basis for a period of one year in the first instance, which was extended later on. His contention is that the advertised post was to be filled through direct recruitment against the direct recruitment quota and there is

no question of deputation. He had made a representation in this regard on 21.6.1991 that he should be given a direct appointment letter to which he states that he had not received any reply. He has submitted that his work was satisfactory and he had received meritorious certificates and cash awards. He has also referred to another order dated 1.11.1993 issued by his parent department in which it has been stated that the applicant's deputation for a period of one year has been allowed with the office of the Commissioner of Police, Delhi. He had been continued on deputation thereafter. Later, Respondent 5 i.e. the Deputy Commissioner of Police had sought and obtained the 'No Objection Certificate' from his parent department subject to certain terms and conditions mentioned by them in their letter dated 27.3.1997 and the willingness of the applicant for being absorbed on permanent basis in the office of the Commissioner of Police, Delhi. Learned counsel for the applicant has, therefore, submitted that the absorption process is complete and the applicant could not have been repatriated to his parent department by the impugned order which is without any reasonable basis causing prejudice to the applicant. The applicant has also submitted that he had been throughout assured that he would be absorbed with the Delhi Police as Computer Operator (Inspector). A contention has been raised that because of the advertisement against which the applicant had been initially appointed, this being a direct recruitment post, the question of repatriation to his parent department does not arise.

4. We have seen the counter replies filed by the respondents and the rejoinders filed by the applicant. In the reply filed by respondents 3-6, they have submitted that there were four posts of Computer Operator (Inspector), out of

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which two posts were for direct recruitment including the post held by the applicant. They have submitted that the applicant along with other candidates who had applied for the post of Computer Operator were interviewed by the Selection Board on 16.4.1991. According to them, the Selection Board who had assessed the applicant's suitability could not find him suitable for direct recruitment to a supervisory level post, but had stated that he could be offered the post on deputation basis in the first instance. Thereafter, they had also issued a circular for appointment of suitable candidates on deputation basis against which they have stated that none had applied. In the circumstances, they had taken a decision to reconsider the case of the applicant for taking him on deputation. On receipt of his willingness as well as the NOC from his parent department, his case was referred to the Government which was also approved by the competent authority to take him on deputation as per Rule 17 of the Delhi Police (General Conditions of Service) Rules, 1980. The order dated 1.11.1993 was issued taking the applicant on deputation effective from that date and thereafter his deputation was extended from time to time. They have submitted that a proposal was also made to the competent authority i.e. the Government of NCT, Delhi for obtaining their approval regarding permanent absorption of the applicant as Computer Operator (Inspector) which was, however, not given by their letter dated 28.4.1998. In this letter, they have stated that a decision had been taken to reject the proposal for absorbing the applicant on permanent basis in Delhi Police as they were of the opinion that a direct recruitment or a departmental candidate would be a better option. In pursuance of this letter, the impugned letters repatriating the applicant to his parent department had been issued directing him to report for

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further duties there, which according to the reply filed by Respondent 1 and 2, has already taken effect from 4.6.1998. The respondents have categorically denied that they had given any assurance regarding his permanent absorption in Delhi Police as according to them under the relevant Rules it was only the Administrator who had the power to absorb the person in the rank of Inspector in Delhi Police. They have also submitted that since the applicant could not be absorbed in the post, he had to be repatriated to his parent department. In the circumstances, the respondents have submitted that the O.A. may be dismissed.

5. In the rejoinders filed by the applicant, he has reiterated his submissions in the application stating that the Selection Board had adjudged his suitability in the computer field and he was, therefore, appointed against the direct recruitment quota in accordance with the recruitment Rules and hence he could not be repatriated to his parent department.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. The facts in the case regarding the advertisement against which the applicant had applied and appeared for the interview before the Selection Board on 16.4.1991 are not disputed. Although in the advertisement, the post was advertised as a direct recruitment post and did not stipulate that it was to be filled by appointment on deputation/transfer basis, it is seen from the documents on record that only after obtaining the applicant's consent as well as the No Objection Certificate from his parent

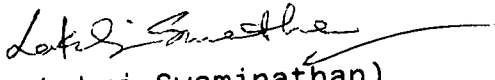
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department, the respondents had issued the order dated 1.11.1993 appointing him to the post of Computer Operator (Inspector) only on deputation initially for a period of one year subject to usual terms and conditions. In the letter dated 7.7.1992 addressed to the Commissioner of Police on the subject of filling of one post by transfer on deputation (short term contract), the applicant had shown his willingness to accept the appointment. Therefore, the applicant was well aware that the post was to be filled on deputation basis only, which is also clear from the Notification dated 1.11.1993 appointing him with effect from that date on deputation basis as Inspector Computer Operator in Delhi Police. Respondent 6 had in 1997 sought the approval of the competent authority for permanent absorption of the applicant in that post, after obtaining 'No Objection Certificate' from his parent department which was, however, turned down by that authority for reasons mentioned in the letter dated 28.4.1998. We do not find the reasons given by the competent authority for rejection of the proposal to absorb the applicant on permanent basis with the Delhi Police either arbitrary or perverse which justifies our interference. It is well settled law that in exercise of the powers of judicial review the Tribunal/Court cannot substitute its findings or decisions in such matters for that of the competent authority. By the Notification of 1.11.1993 the applicant was appointed purely on deputation basis initially for a period of one year which has been extended till he was repatriated to his parent office, which is unexceptional and valid. (See State of Punjab & Ors. Vs. Inder Singh & Ors. (1997(8) SCC 372) and Rattilal B. Soni Vs. State of Gujarat and Ors (AIR 1990 SC 1132). In Rattilal B. Soni's case (supra), the Supreme Court has held that the applicants being on deputation could be reverted to their

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parent cadre and they did not get any right to be absorbed on deputation basis. The impugned orders of repatriation passed by the respondents based on the decision of the competent authority to repatriate the applicant to his parent department dated 25.5.1998 and 26.5.1998 are legally in order and no such directions as prayed for in the O.A. can, therefore, be granted. As mentioned above, in pursuance of these orders, the applicant has also resumed his work with his parent department w.e.f. 4.6.1998.

8. In the result, we find no merit in this application and O.A. is accordingly dismissed. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)


(S.R. Adige)
Vice Chairman (A)

'SRD'