

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. No. 1173/98~~99~~

Date of Decision:

31.8.99.

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Shri Brij Raj Singh

...Applicant

(By Advocate Shri G.S. Chaman)

Versus

Union of India & Another

~~Union of India & Another~~

...Respondents


(By Advocate Shri N.K. Aggarwal)

CORAM:

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VC(J)

HON'BLE ~~SHRI~~/MRS. SHANTA SHASTRY, MEMBER (A)

1. TO BE REFERRED TO THE REPORTER OR NOT? ~~YES~~
2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL? No


(V. Rajagopala Reddy)
Vice-Chairman (J)

Cases referred: 1990 Supp. SCC 243

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1173/98

New Delhi this the 31st day of August, 1999.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

Brij Raj Singh,
S/o Shri Saroj Singh,
Haiwatmau Malvaiya,
Near SGPGI, Lucknow,
presently c/o K.D. Sharma,
163 Pushpanjali Apartment,
Pitampura,
New Delhi.

...Applicant

(By Advocate Shri G.S. Chaman)

-Versus-

1. Union of India through the
Director Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi.

2. Director General, CRPF,
CGO Complex, Lodhi Road,
New Delhi.

...Respondents

(By Advocate Shri N.K. Aggarwal)

O R D E R

By Reddy, J.

The applicant submits that he was originally appointed as Security Assistant and he was also promoted as Junior Intelligence Officer Grade II (G) (for short JIO-II (G) in the Central Reserve Police Force (CRPF for short) under the Director Intelligence Bureau (IB). Subsequently, he was deputed as Security Assistant (Constable) to the IB on 30.12.94. By the impugned order dated 12.5.98 the applicant was repatriated to his parent department, namely, CRPF at Srinagar. It is his grievance that under the recruitment rules of non-gazetted posts in IB all deputationists are entitled for absorption to IB from

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Central/State Police Organisations. The only requirement of such absorption was that one should have rendered not less than five years service in the IB. Hence, it is the case of the applicant that instead of being absorbed in the IB he was served with the impugned order of repatriation to the CRPF. The applicant further submits that several other deputationists from CRPF have been absorbed in the IB, including respondent No.2. Thus even on the equitable principle of legitimate expectation the applicant is entitled to absorption. Learned counsel for the applicant, therefore, contends that the applicant had acquired a vested right for absorption in IB and that right cannot be taken away. Even invoking the principles of equitable estoppel as equally placed deputationists have been absorbed the respondents are estopped from sending him back to the CRPF.

2. The learned counsel for the respondents contends that the applicant has no right in continuing in the deputation post and he was liable for repatriation and repatriation cannot be resisted by any employee. The learned counsel for the respondents submits that the decision in Ratilal B. Soni & Ors. v. State of Gujarat & Ors. (1990) Supp. SCC 243 is the complete answer to all the contentions of the applicant and the OA is, therefore, liable to be dismissed.

3. Admittedly, the applicant's parent department is CRPF. He was later sent on deputation to IB as Security Assistant. It is not the case of the applicant that he was absorbed in the IB. The impugned



order also mentions that the applicant was a deputationist and that he was placed at the disposal of the Director General, CRPF, w.e.f. 31.5.98.

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4. The question is whether a deputationist is entitled for absorption in the deputation post and whether the deputationist can resist the repatriation to his parent department. The law is trite that deputationist cannot resist repatriation. The Supreme Court held in Ratilal B. Soni's case (supra) that deputationists could be repatriated to their parent cadre at any time and they do not get any right to be absorbed in the deputation post. The contention that the several other officers who were on deputation have been absorbed in the IB, is devoid of force. The department is entitled to absorb people if it felt that their services are necessary in the borrowing department. In the absence of any right in the applicant he cannot question the absorption of other officers. The applicant was recruited w.e.f. 26.3.90 for a period of five years. It was clearly stated in the counter affidavit that the applicant was appointed to the rank of JAO-II (G) against the vacancies in the deputation quota in terms of the IB statutory recruitment rules. It is also averred that in February, 1998 the CRPF requested for applicant's repatriation and consequently he was informed of his proposed repatriation w.e.f. 30.4.98, subject to receipt of his place of posting from his parent department. Finally, the impugned order was passed repatriating the applicant to his parent department. It was also averred that the applicant has made a representation for his absorption in IB or for

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extension of his deputation, but it was rejected with the direction to report to his parent department. The question of estoppel is equally inapplicable as there can be no estoppel against law. The applicant was neither assured at the time of deputation nor promised later that he will be absorbed. The law is clear that a deputationist is liable for repatriation. Thus, all the contentions are rejected.

5. The impugned order, therefore, does not suffer from any infirmity. The O.A. is, accordingly, dismissed. No costs.

Shanta

(Smt. Shanta Shastry)
Member (A)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice-Chairman(J)

'San'