

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1887/1998

New Delhi, this 17th day of December 1999

Hon'ble Shri S.P. Biswas, Member(A)
Hon'ble Shri Kuldip Singh, Member(J)

(3)

A.H. Khan
C-2, Minto Road Complex
New Delhi

Applicant

(By Shri S.Y. Khan, Advocate)

versus

Union of India, through

1. Secretary
M/Information & Broadcasting
New Delhi
2. Director General
Doordarshan, Mandi House
New Delhi
3. Director
Central Production Centre
Doordarshan, Siri Fort, New Delhi .. Respondents

(By Shri S.M. Arif, Advocate)

ORDER

Hon'ble Shri S.P. Biswas

The applicant, a Music Composer under the respondents, is aggrieved by A-1 order dated 1.7.98, by which he has been asked to exercise his option for being declared surplus and being transferred to the Surplus Staff Establishment. Consequently, applicant has prayed for reliefs in terms of issuance of directions to the respondents to stop the alleged arbitrary proposal rendering the applicant surplus. It is the case of the applicant that he has been singled out for being transferred to Surplus Cell when other officials, junior to him, have been allowed to stay in the present cadre. Applicant mentions names of S/Shri Chotte Lal, Inder Narain and Ram Mohan Dubey who are junior to him but

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have not been touched in the proposal for declaring certain officials as surplus.

2. Shri S.Y. Khan, learned counsel for the applicant argued vehemently to say that the principle to be applied in matters such as reversion, retrenchment or declaration of surplus is the cardinal rule of seniority of the officials concerned. In other words, only juniors are required to be picked up for placement in the surplus cell. When the work is of perennial nature, the same may not be entrusted to a contractor or private producers. The impugned orders of the respondents are in violation of the law laid down by the apex court in the case of All India Statutory Corpns. etc. Vs. United Labour Union & Ors. 1997(3) SLJ SC 81. In a system governed by rule of law, an arbitrary action has to be avoided. Respondents' action in placing the applicant in the surplus cell when he is facing retirement in September, 2002 is fraught with arbitrariness and law laid down by the apex court.

3. In the counter, Shri S.M. Arif, counsel for the respondents would submit that the applicant is still working with the respondents in spite of abolition of the post vide Ministry's order dated 28.2.95. It is also contended that the application is barred under sections 20 and 21 of Administrative Tribunals Act, 1985. It is also the contention of the respondents that all the posts of Music Composer have been abolished and all incumbents have been asked to exercise such options

15

and therefore it is submitted that the applicant's case is not isolated one. There is no question of seniority in this case as such, respondents would contend. All the incumbents of the posts have been asked to submit options in terms of forms supplied to them and applicant cannot speak of being discriminated in isolation.

4. We find that the respondents have mentioned that the post of Music Composer has been abolished by the orders of the Ministry of Information and Broadcasting but none of them have been produced for our perusal. On the contrary, as per the statement of the respondents the same does not appear to have been implemented and it is evident from their own admissions in para 1 of the reply in that the applicant is still continuing against the post even after 5 years of reported abolition of the said post. Respondents would, however, contend that they are, however, adjusting the applicant against an equivalent post of Scenic Designer with effect from 26.8.96.

5. The issue that falls for determination is on what principle the applicant, alongwith those officials, could be declared surplus and sent to redeployment cell.

The norms the respondents are required to follow in such matters are available in OM issued by DoPT dated 28.2.90. Respondents have not cared to mention if they have resorted to declaring some officials surplus, including the applicant herein, on the basis of the instructions of the DoPT/Government of India.

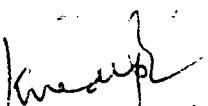
OP

16

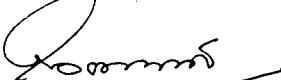
6. In the context of the instructions as aforesaid, we allow this OA with the following directions:

7. Respondents are restrained in rendering the applicant surplus till those juniors to him in the same category have been ordered for the surplus cell. In other words, deployment to surplus cell shall be resorted to strictly in terms of the provisions laid down by the DoPT.

8. There shall be no order as to costs.


(Kuldip Singh)

Member(J)


(S.P. Biswas)

Member(A)

/gtv/