

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO.2832 of 1998

Date of Decision 04-06-1999

(13)

Shri Vijay Kumar Sumbhor Applicant(s)

Shri G.D. Gupta

Advocate for the Applicant(s)

Versus

UOI & others

Respondent(s)

Shri K.C.D. Gangwani

Advocate for the Respondent(s)

C O R A M: (Single/Division)

Hon'ble Shri R.K. AHOOJA, Member (A)

Hon'ble Shri /

1. Whether Reporters of local papers may be allowed to see the Judgement?

Yes/No

2. To be referred to the Reporter or not?

Yes/No

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(R.K. AHOOJA)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.2532/98

Hon'ble Shri R.K. Ahooja, Member, (A)

New Delhi, this the 4th day of June, 1999

Shri Vijay Kumar Sambhor
S/o Shri R.D. Sambhor
R/o Block 65/4C,
Kali Bari Marg, New Delhi 110 001 Applicant

(By Advocate: Shri G.D. Gupta)

Versus

1. Union of India through
The Secretary to the Govt. of India
Ministry of Urban Affairs & Employment
Nirman Bhawan, New Delhi
2. The Controller of Publications
Department of Publications
Ministry of Urban Affairs & Employment
Civil Lines, Delhi 110 054
3. The Director of Printing
Directorate of Printing
Ministry of Urban Affairs & Employment
Nirman Bhawan, New Delhi Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R

The applicant who has been working as Assistant Controller (Publications) in the Department of Publications since 1st May, 1996 is aggrieved by the order of his transfer Annexure A-1 dated 2/4th June, 1998 as Assistant Manager(Administration) at Santragachi. The main contention of the applicant is that the impugned order of transfer has been issued by the Director of Printing and as the jurisdiction of the Director(Printing) does not extend to the Directorate of Publications, the said order has been issued by an incompetent authority.

2. The respondents in their reply have denied this assertion. According to them the applicant belongs to a common cadre with those working in the Directorate of

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Printing and the officers can be interchanged between the Directorate of Publications and the Directorate of Printing. They have also submitted that the Director of Printing has in the past been issuing orders where transfers between the Directorate of Publications and the Directorate of Printing have been involved. It is their contention that the applicant was also selected initially in 1986 on the basis of a requisition ~~transfer~~ issued by the Director of Printing and was then assigned to the Publications Division. They have also pointed out that the applicant has a long stay of more than 12 years in Delhi and is, therefore, due for a transfer.

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3. Shri G.D.Gupta, learned counsel for the applicant, in his submissions, has given the genesis of the trifurcation of the erstwhile Department of the Chief Controller of Printing and Stationery, which took place in January, 1973 as per order dated 6th January, 1973 (Annexure A-2) and the resolution of the Govt. of India, Ministry of Works and Housing dated 5th February, 1973 copy at Annexure A-3. He drew attention to the following Resolution dated 5th February, 1973 which reads as follows:

No.1-11012/3/72-PT - It has been decided by the Government of India to reorganise the existing printing and Stationery Department under the Ministry of Works and Housing into three separate Departments as under:

- (a) Directorate of Printing - ...
- (b) Government of India Stationery Office - ...
- (c) Department of Publication - ..."

2. The post of the Chief Controller of Printing and Stationery has been abolished and all the 3 above mentioned departments shall be under the overall charge of an officer of the rank of Joint Secretary in the Ministry of Works and Housing."

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4. Shri Gupta pointed out that after the implementation of this reorganisation there came into being three Departments of Publication, Printing and Stationery each with its own Head of Department. He pointed out that when the applicant was initially selected as an Assistant Controller of Publications, the offer issued by the Directorate of Printing (copy at Annexure A-5) dated 4th December, 1985 was not considered valid and a revised order had to be issued by the Department of Publication as per Annexure A-7 dated 5th May, 1986. According to the learned counsel, there would have been no need to revise the orders if the Director of Printing was competent to make appointments to the Department of Publications. Shri Gupta also submitted that the applicant had approached this Tribunal in another O.A.535 of 1998 aggrieved by the respondents' action in promoting one of his juniors Hargopal to the post of Deputy Controller of Publications and the Tribunal had stayed the operation of the order. In these circumstances, the transfer of the applicant to a far off place was also motivated. It was also pointed out that the Fifth Pay Commission had recommended the upgradation of the post of Assistant Controller of Publication and this recommendation had been accepted by the Government and the orders were shortly to be issued; in these circumstances the transfer of the applicant was being made virtually to a lower post in the Department of Printing.

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5. I have carefully considered these submissions and arguments but I am unable to find any merit therein. The respondents have annexed a number of orders where in the Director of Printing has been issuing orders of inter-department transfers between Directorate of

Publication and the Directorate of Printing, as also the Directorate of Stationery. It has also been shown that the Director of Printing is the Chairman of the Departmental Promotion Committees for promotion of subordinate staff to the post of Assistant Controller (Publication) etc., while the Director of Publication and the Director of Stationery are only Members of Departmental Promotion Committee. The coordinating role of Director of Printing is also seen from the fact that the requests for recruitment placed on the UPSC are made by the Director of Printing. This was indeed the position in the case of the applicant also. More to the point, however, the Director of Printing has raised no objection and he has not only acquiesced in the order of transfer but has also released the applicant to enable him to join at his new place of posting. The representation of the applicant made to the Secretary, Urban Development in which this ground was also taken has also been rejected. The Resolution dated February, 1973 as reproduced above, clearly states that all the three departments Printing, Stationery, and Publication will operate under the control of a Joint Secretary of the Ministry. In other words, the controlling authority has given its stamp of approval to the order issued by the Director of Printing and his competency in issuing such inter-departmental transfers clearly has the concurrence of the Ministry.

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6. The respondents have also annexed a copy of the common seniority list which includes the names not only of those in the Publication Department but also those working in the Printing and Stationery Departments. It is on the basis of this common seniority list that the

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applicant has contested the promotion of Shri Hargovind working in the Department of Printing to the post of Deputy Controller of Publication.

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7. The restructuring of the department, creation of new posts and conferment of financial powers to the Heads of Department does not ipso facto mean that the common cadres are also bifurcated and that one of the departmental heads cannot be authorised as the nodal point for regulating the deployment of members of the common cadre. The Resolution of the Ministry dated February 1973 makes no mention of assigning this responsibility to the Director of Printing specifically but the Resolution states that the Head, Director of Printing who is in the scale of Rs.1800-2000 will be vested with all the powers of the Head of Department as at present enjoyed by the Chief Controller of Printing and Stationery. While similar provisions have made for the Director of Stationery and the Director of Publication, the administrative and financial power to be exercised by them have been confined only to procurement and distribution of stationery and stocking as well as distribution of government publications. On the other hand, the Director of Printing has been given the status of an 'attached' office the Stationery office and the Publication Department have been given the status only of 'subordinate' offices. Furthermore, the eminence of Director of Printing is also established by the fact that his pay scale is shown as Rs.1800-2000 and that of Controller of Stationery is fixed at Rs.1100-1800 and that of Director of Printing also at Rs.1100-1800.

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7. In view of the aforementioned points, the applicant's main contention that the Director of Printing is not competent to order his transfer cannot be accepted. The argument that the Director of Printing has ^{acquiesced} ~~acquired~~ in this order of transfer since he has come from the post of Deputy Director of Printing goes against rather than in favour of the applicant since it only shows that the posts between Printing and the Publication are interchangeable.

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8. I also find no merit in the argument that the applicant is being punished by his transfer to a lower post. No orders have been shown which give a higher pay scale to the Assistant Controller of Publication as compared to the post of Assistant Manager, the position to which the applicant has been transferred in the Printing Department. The applicant cannot on the basis of the Pay Commission's recommendations, which have not so far been implemented claim that his transfer constitutes a punishment. Similarly, since the applicant has admittedly a longer stay in Delhi, he cannot urge mala fide on the part of the respondents.

9. In the result the O.A., being without merit, is dismissed. There is no order as to costs.

R. K. Ahooja
(R.K. AHOOJA)
MEMBER(A)

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