

Central Administrative Tribunal
Principal Bench
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O.A. No. 455/95

New Delhi, this the 3rd day of August, 1995

Hon'ble Shri J.P.Sharma, Member (J)
Hon'ble Shri B.K. Singh, Member (A)

Bijender Singh,
s/o Shri Hari Ram,
1/190, Khichri Pur,
Delhi- 110 091.

(By Shri D.R.Gupta, Advocate)

Applicant

Versus

1. Chief Secretary,
Govt. of N.C.T. of Delhi,
5-Sham Nath Marg,
Delhi.
2. Deputy Secretary(Admn.),
Govt. of N.C.T. of Delhi,
(Legislative Assembly Sectt.),
Old. Sectt.,
Delhi.

(By Shri Surat Singh, Advocate)

..Respondents

ORDER

By Hon'ble Shri J.P.Sharma, Member (J)

The applicant was appointed by the Memo dated 24.5.1994 by the Deputy Secretary(Admn.) Legislative Assembly Secretariat, Govt. of N.C.T., Delhi for the period from 23.5.1994 to 19th August, 1994 on the condition that the engagement is purely temporary on daily wages as Peon and can be cancelled at any time without assigning any reason and the person will have no claim of regular absorption on the post. The applicant

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has challenged in this application the order dated 20th February, 1995 that the applicant working as Peon-cum-waterman on daily wages is no longer required w.e.f. the afternoon of 20/2/1995. The relief claimed by the applicant is that a direction to the respondents to re-instate the applicant as casual worker and consider him for grant of temporary status and regularisation in accordance with the scheme formulated by the respondents and grant of temporary status in accordance with the scheme by department of personnel & Training and the action of the respondents in terminating the services of the applicant as illegal and violative of article 14 & 16 of the Constitution. He has also prayed that the respondents be directed to pay appropriate salary and allowance to the applicant as if he is having temporary status.

A notice was issued to the respondents to file their reply. They contested this application taking various pleas that the applicant was engaged only as casual worker and was discharged as there was no more job requirement. The applicant has also filed the rejoinder.

We heard the learned counsel for the applicant on the point of jurisdiction. In view of the fact that Central Administrative Tribunal is a creation of C.A.T. Act, 1985 and by virtue of section 2(d) of the said Act any person appointed to the Secretarial staff of either House of Parliament or to the secretarial staff of any State

Legislature or a House thereof or, in the case of a Union Territory having a legislature, of that Legislature, shall be excluded from the jurisdiction of the Tribunal.

The learned counsel for the applicant argued on the point. and stated that infact it is the staff of Delhi Administration and to show that, he filed a newspaper cutting of 'THE HINDUSTAN TIMES' in which there is a news item of May 26. The said newspaper cutting is quoted below:-

"Speaker Chandi Lal Goel expressing his regrets at the Private Members Bill for granting a separate secretariat for the Delhi Assembly not being passed into a law in the Rajya Sabha due to lack of support from the ruling Party has urged the Central Government to "re-think" the matter and come up with the Bill in the next session."

Addressing a Press conference, he said there are at present 32 legislatures in the country and except Delhi and perhaps Pondicherry each Assembly is serviced by a secretariat of its own. By denying Delhi Assembly of this right the Union Government has shown scant regard even for the unanimous recommendations made from time to time by the successive conferences of the presiding officers in India, he said.

He said "I have diverted staff on deputation from different departments like Sales Tax, Transport with us. They are directly under the Chief Secretary as far as their service matters are concerned"

"I cannot take any action against any officer".

He said it was strange that the Speaker's Secretariat was under the Executive instead of being an independent body.

He said it is a well known fact that parliamentary democracy pre-supposes independence not only of the legislature but everything pertaining to it from the control of the Government. This cardinal principle found acceptance in India as early as in 1929 when a separate secretariat was set up in the then Central Legislative Assembly.

When free India's Constitution was drafted, the founding fathers in their wisdom reinforced this principle by constitutionally guaranteeing independent status for Speaker's secretariat. This they ensured in the form of Article 98 empowering the Lok Sabha Speaker and the Rajya Sabha Chairman to regulate the recruitment and conditions of service of persons appointed to the Secretariat staff of the two Houses of Parliament. They also provided for separate staff also for each House of the State Legislature by inserting Article 187.

The bizarre argument put forward that since Delhi is not a State but a union territory its Assembly cannot therefore be serviced by an independent department is nothing but an attempt to throttle democracy in the nation's Capital and to denigrate the institution of Legislative Assembly and the Speaker he alleged."

It is interesting to note that at that time when Constitution was written India consisted only of States A, B and C categories and the concept of Union Territories was not even in embryo stage" However no judicial notice can be taken of a news item and no proceedings of the Assembly has been filed.

The learned counsel for the applicant also argued that certain posts were created in the Legislative Assembly by the Deputy Secretary (LA) and the post of Peon also exists. The sanction of the post has been given by the Govt. of N.C.T., Delhi with prior approval of the Central Government, Ministry of Home Affairs by the letter dated 29th March, 1995 for a period of one year upto 28.3.1996. On this basis, it is contended by the learned counsel that since the respondents have not taken this plea in their counter and the posts have been created by the Lt. Governor on behalf of the Delhi Administration with the prior approval of Central Government. The Central Administrative Tribunal has jurisdiction because for all purposes, the applicant continued in the service of Delhi Administration though he was working in the Legislative Assembly Secretariat of N.C.T. Delhi. These facts have no relevance in the matter under issue as the appointment was made by the Deputy Secretary (Admn.) of Legislative Assembly Sectt, Govt. of N.C.T. Delhi and the impugned order was also passed by the said Deputy Secretary. The applicant was not appointed by any competent authority of Delhi Administration nor he was

given any appointment on deputation to the Legislative Assembly Sectt. In view of this, there is a clear bar under section 2(d) of the C.A.T. Act, 1985, therefore, the Central Administrative Tribunal has no jurisdiction in the matter. The application is, therefore, disposed of as not maintainable with the observation that the Central Administrative Tribunal has no jurisdiction in the matter of an employee engaged on daily wages in the Legislative Assembly Secretariat of N.C.T Delhi. Cost on parties:


(B.K.SINGH)
MEMBER(A)


(J.P.SHARMA)
MEMBER(J)

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