

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.933/95

New Delhi this the 4th day of July 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr B.K.Singh, Member (A)

R.L.Yadav
Head of Department (Electronics)
Ambedkar Memorial Polytechnic
Pusa Polytechnic Building
PUSA, New Delhi-110 012.

R/o House No.1/8 Type IV Aryabhat Enclave
Ashok Vihar Phase II
Delhi-110 052

...Applicant

(By advocate: Shri N.A.Sebastian)
(By Advocate: Shri Ashok Agarwal)
Versus

1. Govt. of National Capital Territory of Delhi
through Secretary cum Director
(Dept.of Training & Technical Education)
C-block, Vikas Sadan, I.P.Estate
New Delhi-110 002.

2. The Principal
Ambedkar Memorial Polytechnic
Pusa Polytechnic Building
Pusa, New Delhi-12

3. Shri K.B.Shukla, IAS
Dept. of Training & Technical Education
C-block, Vikas Sadan
I.P.Estate, New Delhi-110 002

4. Smt Rita Darbari
Ambedkar Memorial Polytechnic
Pusa Polytechnic Building
Pusa, New Delhi.

...Respondents

(By advocate: Shri Vijay Pandita)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

In this application, the applicant Mr R.L. Yadav, Head of Department (Electronics), Ambedkar Memorial Polytechnic, has challenged the legality, propriety and correctness of the order dated 14.3.95 issued by the fourth respondent by which the applicant as Head of Department (Electronics) was deprived of his powers to exercise administrative authority. In the application, the applicant has alleged that the duties of the post of Head of Department (Electronics) in Ambedkar Memorial Polytechnic comprise of both teaching and administrative functions. To establish this case,

the applicant has placed on record a copy of the employment notification persuant to which he was appointed as Annexure-A. A reading of this annexure shows that the duties include administrative functions as well. The case of the applicant is that the respondents 3 & 4 nurtured ill-will towards him since he had made some complaints against several irregularities in financial transactions and even in the matter of appointments, to the CBI, and that it was on account of this enmity that the third respondent purporting to act with the concurrence of the fourth respondent issued the impugned order by which the applicant has been stripped of administrative functions. The order, according to the applicant, is arbitrary, unreasonable and colourable exercise of power which is liable to be struck down.

2. The respondents in their reply admit that the duties of the post of Head of Department (Electronics) include administrative functions as well. They justify the impugned action on the ground that the applicant has been guilty of in-subordination and creating an atmosphere by which the smooth functioning of the institution had become rather impossible. It has also been alleged that the fourth respondent had received several complaints from subordinates of harrassment by the applicant, and that the Principal as Head of the Institution, with a view to have a smooth and harmonious functioning of the institution, had no other option than taking away from the applicant the administrative duties.

3. On 2nd june 1995, when the matter came up for hearing on admission, the implementation of the impugned order was kept in abeyance by an interim order. This order has been extended from time to time and still continues. In view of the interim order and as the issue involved is quite simple, counsels on either side agreed that the application can now be disposed of at the admission stage itslef. Accordingly we have perused the pleadings in this case and have heard the counsel.

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4. The short question to be considered in this case is whether depriving of an officer of a part of his duties would amount to punishment and if so, can that be done without giving the concerned incumbant an opportunity to show-cause against. An officer holding a post is not merely entitled to the remuneration attached to the post but also to exercise the duties and responsibilities attached to the post. Deprival of a part of the functions of a post by an administrative order is undoubtedly a penalty.

From the very nature of the appointment as seen from the advertisement, the post of Head of Department (Electronics) carries both administrative and teaching functions. If the applicant is allowed to discharge teaching functions only, allowing others to deal with administrative functions, in effect, he would cease to be a Head of Department. Therefore it is futile to contend that deprival of the administrative functions does not amount to penalty and is only exercise of power vested on the fourth respondent as Head of the Institution. Learned counsel for the respondents, with considerable vehemence, argued that various exhibits produced alongwith the reply statement would disclose the non-cooperative attitude of the applicant towards the Head of the institution and the way in which he had frivolously complained to the CBI regarding the activities of the institution and under the circumstances the fourth respondent was left with no alternative but to take away the administrative functions from him. For want of details as also not being called upon to decide, we are not in a position to say anything about the action of the applicant in sending complaints to the CBI. If any of the action of the applicant amounted to misconduct, it is not correct to say that the fourth respondent was left with no alternative but to deprive him of the administrative functions, because in such situations, the fourth respondent as Head of the Institution could have taken disciplinary action against the applicant, invoking Central Civil Services (Punishment & Appeal) Rules. The respondents

without resorting to that, ~~the applicants~~ cannot be allowed to adopt a short-cut and to deprive the applicant his right to exercise his administrative functions, without affording him a reasonable opportunity of establishing his case.

5. In the light of what is stated above, we find the impugned order depriving the applicant of the administrative functions as Head of Department (Electronic) is unsustainable in law and is liable to be struck down. We, therefore, strike down the impugned order. The application is disposed of as above, leaving the parties to bear their own costs.


(B.K.Singh)
Member (A)


(A.V.Haridasan)
Vice Chairman (J)

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