

Central Administrative Tribunal, Principal Bench

Original Application No.1321 of 1996

New Delhi, this the 8th day of February, 2000

Hon'ble Mrs.Lakshmi Swaminathan, Member (J)
Hon'ble Mr.R.K.Ahooja, Member (A)

Shri Mahmood Hashmi, s/o late Shri Shokat Ali, r/o D-415, Pragati Vihar Hostel, Lodhi Road, New Delhi-110003

- Applicant

(By Advocate - None)

Versus

Union of India,through

1. Secretary, Ministry of Information & Broadcasting, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi-110001

2. Director General, All India Radio, Sansad Marg, New Delhi-110001

- Respondents

(By Advocate Shri N.S.Mehta through proxy counsel Shri Vijay Mehta)

O R D E R (Oral)

By Mrs.Lakshmi Swaminathan, Member(J) -

Applicant is aggrieved by the order passed by the respondents dated 6.6.1996 ordering his reversion from the post of Deputy Director in the Senior Time Scale (STS) of Rs.3000-4500 to that of Assistant Station Director (ASD) in the Junior Time Scale (JTS) of Rs. 2200-4000 and the OM dated 29.12.1995 by which a charge sheet was issued to him for initiating departmental proceedings against him under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965.

2. This case was listed at item 8 in today's cause list under "Regular matters". As none has appeared even on the second call, we have perused the pleadings and heard Shri Vijay Mehta, learned proxy counsel for the respondents.

3. The brief admitted facts of the case are that the applicant while working in the JTS grade was

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promoted on adhoc basis to STS grade vide order dated 27.11.1995. The applicant's name appears at serial no.2 under Programme Production cadre of All India Radio. Consequent to this order another office order dated 11.12.1995 has been issued stating that the applicant has assumed charge of the post of Deputy Director in the office with effect from 30.11.1995 (FN). Thereafter the applicant was issued a charge sheet by OM dated 29.12.1995 on certain alleged misconduct in respect of incidents which had occurred in 1986.

4. The Tribunal by ~~an~~ ad interim order dated 25.6.1996 had directed that status quo as on that day may be maintained. The applicant has filed this OA impugning the order dated 6.6.1996. This order has been issued reverting him from the promoted post of STS, which was done on adhoc basis to his substantive post in JTS with retrospective effect from 23.5.1996. This order has been issued in pursuance of the respondents' order dated 23.5.1996.

5. The applicant has contended that the aforesaid reversion order has been made without giving him any opportunity of hearing which is, therefore, against the principles of natural justice. He has also submitted that there has been a delay of about 10 years in initiating the disciplinary proceedings which has been unexplained, which is also likely to prejudice him in defending himself; and hence such a charge sheet is uncalled for. He has also taken a number of other grounds challenging the memorandum initiating the disciplinary proceedings with which we need not go into at this stage. The short question for determination in

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this case is whether the respondents would have issued the impugned order dated 6.6.1996 reverting the applicant to his substantive post in JTS.

6. The respondents in their reply have stated that the applicant has been promoted from JTS to STS purely on adhoc basis vide order dated 27.11.1995 and it had been given effect to from the date he took over charge of the new post for a period of four months or till the regular incumbent became available whichever was earlier and until further orders. They have also submitted that it is clearly mentioned in the order that the applicant in the STS of IB(P)S will be on adhoc basis and it will not confer on him any right or privilege for continued or regular appointment in that grade. Subsequently, a departmental proceeding has been initiated against the applicant under Rule 14 of the CCS (CCA) Rules. According to the respondents they have taken a decision to revert the applicant to the post he held substantively because of the initiation of the disciplinary proceedings. Shri Vijay Mehta, learned counsel has submitted that reversion is also in accordance with para 6(i) of the DOPT's instruction dated 24.12.1986 (Annexure-R-1). Learned counsel has, therefore, submitted that there is no merit in this OA as the respondents have followed the relevant instructions in issuing the impugned reversion order dated 6.6.1996.

7. We have carefully considered the submissions made by the learned counsel for the respondents. The applicant has been promoted from JTS to STS grade on adhoc basis with effect from the date he and others took over. In the order dated 27.11.1995 it has also been

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clearly stated that this arrangement is for a period of four months or till the regular incumbent is available whichever is earlier and until further orders. In the rejoinder the applicant has contended that the promotion was on regular basis as it was cleared by a DPC but nothing has been brought on record to support this averment, particularly having regard to the fact that the applicant himself has enclosed office orders dated 27.11.95 and 11.12.95 which show that he has been promoted on adhoc basis only. The relevant portion of the DOPT's OM dated 24.12.86, relied upon by the respondents reads as follows:-

(6) Procedure to be followed when disciplinary proceeding is initiated against a Government servant officiating in a higher post on adhoc basis.- The question whether a Government servant appointed to a higher post on adhoc basis should be allowed to continue in the adhoc appointment when a disciplinary proceeding is initiated against him has been considered by this Department and it has been decided that the procedure outlined below shall be followed in such cases-

(i) Where an appointment has been made purely on adhoc basis against a short term vacancy or a leave vacancy or if the Government servant appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year; the Government servant shall be reverted to the post held by him substantively or on a regular basis, when a disciplinary proceeding is initiated against him.

8. In the facts and circumstances of the case, therefore, we do not find any irregularity in the action taken by the respondents in passing the impugned order dated 6.6.1996 reverting the applicant to the substantive post when they have initiated the disciplinary proceedings against him under Rule 14 of the CCS (CCA) Rules by OM dated 29.12.1995. At that time he would have held the adhoc officiation for less

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than one year.

9. As mentioned above, the applicant has taken a number of grounds impugning the validity of the action of the respondents in initiating the disciplinary proceedings which according to him is highly belated. The respondents in their reply have, however, controverted these averments stating that it would be for the competent authority to consider his defence in the departmental proceedings and take appropriate action in the matter.

10. Having regard to the decision of the Hon'ble Supreme Court in Union of India Vs. Upendra Singh (JT 1994 (1) SC 658) we are of the view that at this stage it is not appropriate for us to go into the truth or veracity of the allegations made in the impugned order dated 29.12.1995. It is open to the applicant to take whatever defences ^{he} has under the law before the competent authority in the departmental proceedings.

11. For the reasons given above, we find no merit in this application. The same is accordingly dismissed. No order as to costs.

R.K.Ahooja
(R.K.Ahooja)
Member (Admnv)

Lakshmi Swaminathan
(Mrs.Lakshmi Swaminathan
Member(J)

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