

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 789/96
T.A. No.

199

(10)

DATE OF DECISION 6.11.1996

Sh. K.B.L.Shukla

Petitioner

Shri M.K. Gupta Singh

Advocate for the Petitioner(s)

VOI through Director General
National Archives of India & Ors

Respondent

Shri V.P.Uppal

Advocate for the Respondent

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to other Benches of the Tribunal? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench.

O.A. 789/96

New Delhi this the 6th day of November, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

K.B.L. Shukla,
S/o Shri H.P. Shukla,
Hindi Officer,
National Archives of India,
Janpath,
New Delhi.

..Applicant.

By Advocate Shri M.K. Singh.

Versus

1. Union of India through
Director General,
National Archives of India,
Janpath,
New Delhi.
2. The Chief Commissioner of
Income Tax,
C.R. Building.
3. The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.

..Respondents.

By Advocate Shri V.P. Uppal.

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 being aggrieved by the order dated 1.3.96 in which it is stated that the recovery of a sum of Rs.86,241/- be made from his salary in respect of Flat No. 84/III, Pitampura, Delhi.

2. The brief facts of the case are that when the applicant was posted with Respondents, he was allotted a Type-III accommodation. By the

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order dated 13.6.1990, the respondents relieved him on his selection as Assistant Director (O.L) in the Department of Education, Ministry of Human Resources Development. The learned counsel for the applicant submits that the applicant had at no time resigned from the service of the respondents when he took up the post of Assistant Director (O.L.) in the Ministry of Human Resources Development as stated in the order dated 24.9.1990. The applicant's contention is that he is a permanent translator with the respondents and is holding the lien there and that he should have been allowed to retain the present accommodation. He has stated that he had submitted a reply to the notice served on him under Section 4(1) of the Public Premises (Eviction of Unauthorised Occupants Act, 1971) dated 10.5.1991 issued by the respondents.

3. One of the grounds taken by the applicant is that he is on deputation in another office in Delhi and, therefore, he should be allowed to ~~be allowed to~~ enjoy the facility of government accommodation on normal rent. Shri M.K. Singh, learned counsel for the applicant, has submitted that termination of the applicant's lien in violation of the principles of natural justice is illegal. He has also submitted that in the parent department the applicant was promoted as Assistant Director (O.L.) on 25.6.1990 which, according to him, was never communicated to him. He submits that if this was known to him, he could have assumed the charge ^{as} in the promoted post, in which case he could have been allowed to continue in

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the same quarter. The learned counsel also relies on the seniority list published by the respondents on 1.8.1991 in which he states that the applicant's name appears at serial No. 37 against which it is mentioned that he is on deputation which clearly shows that he has, therefore, not resigned from the post.

4. The respondents have on the other hand filed a reply disputing the above facts. They have submitted that the application is barred by limitation as the cause of action arose when notice for vacating the premises was issued on 10.5.1991 and received by the applicant on 27.6.1991. On merits, they have submitted that the applicant was selected by the UPSC to the post of Assistant Director in the Department of Education. Shri V.P. Uppal, learned counsel for the respondents has strongly disputed the fact that the applicant was on deputation even though the seniority published on 1-8-1991 might have erroneously mentioned so, as the facts and the rule position are contrary to the averments made by the applicant. He has also submitted that under FR 14-A, ~~the~~ the period of retention of his lien in the parent department i.e. with the respondents ^{for} and it was two years /had been correctly terminated in accordance with the rules. The learned counsel has also submitted that a copy of the order dated 15.02.1991 promoting the applicant as Assistant Director (OL) by No.8/90 order /dated 25.6.1990 had been endorsed to the applicant. Since the applicant was well aware that he stood promoted and posted to Shillong by order No. 8 of 1990, he did not come forward to accept the same at that time as he knew that

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he will have to join there, as the post was not in Delhi.

The respondents have, therefore, submitted that since the house allotted to him was meant only for eligible category officials working with them ^{as} respondents, he was not entitled to retain the same. The same applied in case he had accepted the promotion post of Assistant Director at Shillong, in which case he would not have been entitled to retain the government accommodation at Delhi. Since the recovery of rent is in terms of the rules, the respondents have submitted that the application may be dismissed. No rejoinder has been filed by the applicant but the learned counsel for the applicant submitted that he has not received the promotion order.

5. I have carefully considered the pleadings, record and the lengthy submissions made by the learned counsel for the applicant and the reply of the learned counsel for the respondents.

6. The claim of the applicant that he was posted as Assistant Director (OL) in the Ministry of Human Resources Development on deputation cannot be accepted. A mere perusal of the memo dated 29.5.1990 from that Ministry annexed by the applicant himself, shows that he was directly recruited to the post through the UPSC. The question of deputation will, therefore, not arise. Merely because the seniority list issued by the respondents on 1.8.1991, i.e. after his recruitment to the post of Assistant Director in the Ministry of Human Resources Development shows him erroneously as on 'deputation' will not assist the applicant, in the light of the other relevant orders and

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rules.

7. The learned counsel for the applicant vehemently argued that the applicant had never resigned from the post which he held with the respondents prior to his recruitment in the Ministry of Human Resources Development through the UPSC. The learned counsel for the respondents had referred to the prescribed procedure regarding forwarding of applications in response to UPSC advertisements and the Annexure-II - declaration to be given by the Government servant concerned, as reproduced in Swamy's Manual on Administrative Procedure and Processing Personal Claims (Pages 15-16). In Annexure-II, a declaration has to be given by the government servant that in the event of his selection, for which he has requested the authority to forward his application for consideration by the UPSC, he will resign from his present post with effect from the date he completes two years or ~~the~~ he is permanently absorbed in that other organisation, whichever is earlier.

8. There is no doubt that the applicant has been appointed as a direct recruit by the UPSC in the post of Assistant Director (OL) in the Ministry of Human Resources Development, which would require such a declaration to be given by him to the parent department.

10. Therefore, after a period of two years he would be deemed to have resigned from the parent department. The respondents have stated that the applicants lien was suspended under FR 14-A w.e.f. 13.6.1992, ~~as he was relieved~~

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as he was relieved to join the post of Assistant Director (OL) on 13.6.1990 and he was also given an option to revert to his cadre to which he did not respond. These facts have not been disputed by the applicant. In the circumstances, the action of the respondents to finally terminate his lien w.e.f. 22.8.1993 cannot be faulted. It is also not disputed that the applicant was allotted the quarter, in question while he was serving with the respondents under the Department of Revenue and Company Law, Allotment Rules, 1964. Under these rules, allotment of quarter is made only to persons holding posts under the control of the Department of Revenue. The applicant has failed to show how after his recruitment as a direct recruit to the post of Assistant Director in another Ministry he is entitled to continue to occupy the quarter allotted to him by the respondents after the permissible period, as provided therein. It is noted that a copy of the order dated 14.1.1991 in reply to applicant's letter dated 11.1.1991 has also been endorsed to the applicant C/o the Ministry of Human Resources and it shows that he has been promoted and posted at Shillong by order No. 8/90 dated 25.6.1990. Under the allotment rules, therefore, even if he had accepted this promotion in his parent department he would have had to vacate the quarter at Delhi. None of the other grounds taken by the applicant is tenable as it is not in accordance with the Rules for allowing him retention of the quarter in question on payment of normal licence fee when he is no longer working with the respondents.

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10. In the facts and circumstances of the case, there are no justifiable grounds to warrant any intervention in the matter as the impugned order dated 1.3.1996 is neither arbitrary nor against the rules. In the result, the application fails and it is accordingly dismissed. Parties to bear their own costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'