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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./TAX. No. 509/1997

Decided on: 21/9/

Shri Prabhakar SinghApplicant(s)

(By Shri B.B. Raval Advocate)

Versus

U.O.I. & OthersRespondent(s)

(By Shri R.P. Aggarwal Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter *yes*
or not?
2. Whether to be circulated to the other
Benches of the Tribunal?

[Signature]
(K. MUTHUKUMAR)

MEMBER (A)

(4) (11)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 509 of 1997

New Delhi this the 2nd day of December, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Prabhakar Singh
S/o Shri RAM Akbal Singh,
R/o 11-E, Central Government Housing Complex,
Vasant Vihar,
New Delhi-110 057.Applicant

By Advocate Shri B.B. Raval.

Versus

1. Union of India
Through the Secretary,
Ministry of Information and
Broadcasting,
Government of India,
Shastri Bhawan,
New Delhi-110 001.
2. Secretary,
Department of Personnel & Training,
Government of India,
North Block,
New Delhi.
3. The Chief Producer,
Films Division,
Government of India,
24, Dr. G. Deshmukh Marg,
Mumbai-400 026.
4. Jt. Chief Producer,
Films Division,
Ministry of I & B,
Soochna Bhawan,
Lodhi Road,
New Delhi-110 003.Respondents

By Advocate Shri R.P. Aggarwal.

ORDER

Applicant challenges the order of transfer on the ground that the respondents have transferred him by the colourable exercise of power and in a mala fide manner. The applicant was working as a Chemist in the Films Division at New Delhi under the respondents. He was appointed as a Laboratory Supervisor as a part of

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Redeployment of Surplus Staff in accordance with the Central Civil Services (Re-deployment of Surplus Staff) Rules, 1990. It is stated that consequent on the abolition of post of Chemist in the Films Division, New Delhi as per the recommendations of the Staff Inspection Unit of the Ministry of Finance, the applicant, who was working as a Chemist in the above post, was appointed as Laboratory Supervisor in the Films Division in the Eastern Regional Production Unit at Calcutta. He was accordingly relieved of his duties with a direction to report for duty at the Calcutta Office after availing of joining time in accordance with the rules. The main contention of the applicant is that being a General Secretary of the Films Division Employees' Union, a constituent of Federation of the Ministry of Information and Broadcasting employees, he had drawn the attention of the respondents to the mal-practice of contracting out to the private laboratories for the processing of Films when the actual Film Processing Laboratory was lying idle and this contracting out to private laboratories was also done in such a way that it favoured selected parties and as a result of this, the respondents had paid very high charges for the processing. The applicant claims that these malpractices were corroborated by a letter written by one Shri Bhardwaj, President of the Union in 1992 addressed to the then Hon'ble Minister for Information and Broadcasting, when the entire conspiracy to close down the Film Divison at New Delhi with the connivance of some of his officers of the Films Division at Bombay was exposed. It is also claimed in the petition that the applicant had also brought to notice under-utilisation of the capacity of Film Laboratory at Delhi and work was

being diverted and got done through private laboratories resulting in a huge financial loss to the Government. The applicant claims that keeping these complaints in mind, the respondents had proceeded to systematically dismantle the Film Processing Laboratory at New Delhi and to recommend its closure on flimsy grounds such as shortage of power, electricity and water and freight expenditure involved. The applicant contends that by some modernisation of the plant and with minor adjustments, it should have been possible for the department to continue the Film Processing Laboratory with full capacity. Because of the conspiracy involved in this, the respondents had managed to manipulate the Staff Inspection Unit of the Ministry of Finance to give an adverse recommendation for abolition of posts and declaration of staff as surplus. Consequently, the respondents have proceeded to declare as many as 28 staff members as surplus to be adjusted under the Re-deployment of Surplus Staff Scheme. By this, the authorities had arbitrarily transferred some favourite persons to equivalent posts in Delhi, whereas the applicant had been transferred to a post of Laboratory Supervisor at Calcutta where his duties would be totally different from that of Chemist. The other ground taken by the applicant is that despite the fact that as a Chemist, he was in-charge of Chemicals and Stores worth more than 10 lakhs he was asked to report out at Calcutta with immediate effect without appropriate arrangement for handing over of the stores to properly designated authority and this was clearly illustrative of the mala fide intent of the respondents. The applicant also contends that his request for placing him on the Surplus

Cell was also accepted and under this, he was required to exercise his option. He was to have been transferred to the Surplus Cell of the Ministry of Personnel in accordance with the rules and Scheme whereas the respondents subsequently informed him in writing about the abolition of post and posting him to the Eastern Regional Production Centre, Calcutta with immediate effect. This was done with a mala fide intention to punish the applicant. His appeal against this transfer order was also not considered. The applicant also points out that in the case of another person by name Shri S.N. Pillai Negative Grader-cum-Supervisor, the respondents referred him to the Surplus Cell more than 2 years before the order in the case of applicant and yet he was allowed to continue to stay at Delhi without any post whereas the respondents had acted in a discriminatory manner against the applicant.

2. Respondents in their reply have strongly denied the allegations. It is stated that the applicant was confirmed in the post of Lab. Assistant with effect from 20.1.77. The applicant was earlier working at Bombay and was transferred to the Regional Production Centre, Calcutta in May, 1975 on the basis of his request. He was subsequently promoted as Chemist on ad hoc basis and was posted in the Film Processing Laboratory, New Delhi. The respondents strongly deny that there has been any mala fide action against the applicant. Although the applicant was posted against comparable post of Laboratory Supervisor in 1995 as the post of Chemist was declared surplus, he represented against this posting and prayed for transferring the post of Laboratory Supervisor

from Calcutta to Delhi. This was not found feasible as there was no Laboratory in New Delhi. In the light of this, the placement of his services on the rolls of Surplus Cell was accepted and his case was referred for re-deployment. However, the matter was considered by the Department of Personnel who had advised as per the revised Scheme of Re-deployment of Surplus Staff, where employees are to be declared surplus out of a cadre, it would be in the reverse order of seniority and options be invited from the persons higher up in the ladder of seniority, who would like to be declared surplus in preference to their juniors included in the list of availing of the benefit of voluntary retirement or redeployment. In the present case, the Department of Personnel & Training suggested that the applicant should be adjusted against the post of Laboratory Supervisor available at Calcutta. The matter was again taken up with the Surplus Cell. However, the Department of Personnel finally advised that the Ministry/Head of Department can adjust the employee declared surplus by it against the vacancy in any post in any office under his control and carrying an equivalent pay scale for which the employee is considered suitable and the aforesaid adjustment should be communicated to the Surplus Cell. In the light of this advice, the applicant was adjusted against the comparable post of Laboratory Supervisor and was posted in the Films Division of Eastern Regional Production Centre at Calcutta. In the circumstances, the respondents had no other alternative except to adjust him against the aforesaid post. The respondent have also rejected the applicant's casting aspersion on the bona fides of the respondents without any basis. It is stated that the Processing

Laboratory at New Delhi was established mainly to take care of the work of Films on Defence and the Laboratory was equipped to process only films in Black and White. As Defence Ministry had stopped making films in Black and White, the Film Unit did not get enough work although it was continued with some work diverted from Bombay to Delhi. Later on, the Films Division, Bombay switched over to the release of films in colour in Cinema House and, therefore, there was hardly any work that could be given to this Film Unit which was dealing only in Black and White Films. Subsequently, the Staff Inspection Unit conducted the work study of the Delhi based unit including the Film Processing Laboratory and recommended its closure. Accordingly, with the sanction of the President, the respondents abolished 36 posts of Delhi Films Division and declared 15 other posts as surplus to be adjusted under the Re-deployment of Surplus Staff Scheme. Although the applicant was originally considered for Re-deployment by the Surplus Staff as per the advice of the Ministry, in terms of provisions of Rule 4(6) of the CCS (Re-deployment of Surplus Staff) Rules, 1990, the applicant was adjusted against the comparable post within the Ministry itself and in view of this, respondents have strongly denied that there had been any mala fide intention on the part of the respondents.

3. In regard to the allegation of the applicant that work is being contracted to privatee parties, the respondents strongly deny this allegation. It has been stated that the Films Division has been procuring raw films through Directorate General of Supplies and Disposals and these raw films were approved by the

technical experts and on the basis of their advice, the DGS&D finalised the rate contract after incorporating the terms and conditions and, therefore, there was no basis for these allegations. The applicant, it is contended has intended to malign the senior officers. It is also pointed out that the Films Division was trying to adjust the applicant by trying to put him on the rolls of the Surplus Cell but as this was not found possible in the Surplus Cell, he had to be adjusted against the existing vacancies in the department in a comparable post in accordance with the rules and instructions governing the Re-deployment of Surplus Staff.

4. I have heard the learned counsel for the parties and have also perused the affidavit filed by the respondents and the objections of the applicant.

5. It is an admitted position that consequent on the abolition of the post of Chemist, the applicant was declared surplus. There is no dispute about this. As per the affidavits filed by the respondents as many as incumbents of 15 posts were declared surplus amongst which the applicant was one in the post of Chemist. The applicant's main grievance seems to be that he should have been referred to the Surplus Cell for re-deployment in other departments which was initially accepted by the respondents. However, this did not materialize as respondents were advised by the Department of Personnel in-charge of the Surplus Cell to first explore the possibility of adjusting the applicant against any vacant comparable post within the Ministry itself as per the

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extant instructions. The applicant being a Chemist, the respondents have found that he was suitable for being considered for deployment against the comparable post of Laboratory Supervisor. The applicant's contention is that the nature of work as a Laboratory Supervisor was entirely different from that of Chemist. Because of the winding up of the Film Processing Laboratory Division at New Delhi, there was no question of appointing him as Chemist. There is no assertion that there is any vacant post of Chemist in any other Laboratory or Centre of the Ministry of Information and Broadcasting and as the applicant was himself initially appointed to the post of Laboratory Assistant, it was found by the respondents that the post of Laboratory Supervisor could be considered comparable to that of Chemist. In the circumstances, I find that it would not be appropriate for the applicant to contest the respondents' decision in this behalf. The decision to re-deploy a Surplus Staff member to a comparable post, has to be within the general parameters of such re-deployment taking into account the general nature of duties and responsibilities. It may be that on the post of Laboratory Supervisor, he would not be in a position to do same type of duties as that of a Chemist but when the post of Chemist itself had been abolished and there was no other post of Chemist elsewhere, all that the respondents could do was to re-deploy him in a comparable post. Therefore, the adjustment of the applicant in the post Laboratory Supervisor cannot seriously be faulted. The applicant has raised the case of one Shri Pillai, Negative Grader-cum-Supervisor, who was also declared surplus, whose case had to be referred to the Surplus Cell for

re-deployment as Department could not adjust him in any comparable post. He was ultimately re-deployed by the Surplus Cell in the post of Cameraman in the Door Darshan Kendra, Bombay.

6. Having considered this application in all its aspects, I am of the considered view that there are no good grounds to interfere in this application. The applicant has not alleged any personal mala fide against any individual officer but has only alleged mala fide in general against the Department as a whole. Merely on the ground that he had raised some allegations about the alleged malpractices in the Films Division, it cannot be said that the applicant had been singled out for harassment. The Film Division Processing Unit had to be closed down for administrative reasons, on account of for lack of work and whether it could be modernised and made useful would a matter purely within the province of administration. As a result of closure of Film Unit, 15 incumbents of various posts were declared surplus and some of them were referred to Surplus Cell for re-deployment in other Ministries and in the case of the applicant, he was redeployed within the department itself against a comparable posts under the relevant rules on the subject. In the light of this, the action of the respondents cannot be faulted and cannot be held to be in colourable exercise of power. It is fairly clear that the entire exercise of closure of the Film Unit and the declaration of Surplus Staff and their redeployment was necessitated due to administrative reason and in public

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interest and the respondents' action in respect of the applicant cannot be said to have been tainted with any mala fide motive or intention.

7. It is also clear that from the attempts made by the respondents to refer his case initially to the Surplus Cell and subsequently on their being advised to redeploy him in the department itself, it is amply established that there has been no arbitrariness in the decision and that there has been no violation of any instructions or orders. In M/s Shilpi Bose Vs. State of Bihar, 1992 (6) SLR 713, the Apex Court observed as follows:-

" The Courts should not interfere with the transfer orders which are made 'in public interest and for administrative reasons unless they are made in violation of any mandatory rule or on the ground of mala fide'.

8. Here it is not even a case of transfer but the case of redeployment in terms of the Scheme of Re-deployment of Surplus Staff in a comparable post which happened to be located outside his previous place of posting. In the circumstances, it would not be appropriate for the Courts or Tribunals to interfere with such orders.

9. In the light of the foregoing, the application has no merit and is dismissed without any order as to costs.



(K. MUTHUKUMAR
MEMBER (A))

Rakesh