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Central Administrative Tribunal
Principal Bench, New Delhi.

D.A.724/1994

New Delhi, This the 28th Day of April 1994

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Shri D C Sharma
Block-R, Flat 21F
Dilshad Garden
Delhi - 110095

..Applicant

By Advocate Shri G K Aggarwal
Versus

Union of India Through

Secretary, Ministry of Urban Development
Nirman Bhawan, New Delhi - 110011. ...Respondent No.1

The Director General(Works)
Central Public Works Deptt.
Nirman Bhawan, New Delhi. 110001 ...Respondent No.2

The Superintending Engineer(Co-ord)(Electrical)
IP Bhawan IV Floor, New Delhi - 110002 ...Respondent No.3

The Superintending Engineer(Central Stores),
CPWD, Netaji Nagar, New Delhi - 110023. ..Respondent No.4

By Advocate Shri P H Ramachandani

By Intervenor Shri R K Kamal

O R D E R(Oral)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. The applicant is a junior engineer(Electrical) in CPWD. Vide order 6.4.93 he was transferred from Delhi to Jaipur. This order contains a list of 79 Junior Engineers who have been transferred from the Headquarters to new places. On 23.4.93 in partial modification to order 6.4.93 further instructions were issued to the effect that the 7 Junior Engineers mentioned therein including the applicant were allowed to continue in their respective erstwhile Headquarters till 31.3.94.

2. On 18.3.94, 65 Junior Engineers(Electrical) were issued transfer orders and it is the case of the applicant that this is ^{the} ~~an~~ transfer order which is ^{annually} issued. In this order it has been mentioned that the order of 18.3.94 is being issued in "supersession

of previous orders" of 1993. Separately vide order of 29-3-94 the applicant and another person namely Shri Krishna Swarup Gupta were issued orders to report at Jaipur/Madhavpur after 31-3-94. (Both these JEs (Electrical) figures in the partial modification order of 28-4-93 conferring the benefit of continuing to stay in the erstwhile H.Q.s till 31-3-94). This order of 29-3-94 addressed to the respective controlling officers has directed them to relieve the applicant and Shri Krishna Swarup Gupta as early as possible.

3. This U.A. has been filed praying for a relief that the order of 29-3-94 supra may be set aside along with all actions pursuant thereto.

4. Shri G.K. Aggarwal the learned counsel for the applicant argued that the order of 18-3-94 which specifically mentions that this order is in supersession of 1993 orders should imply that even the transfer order of the applicant dated 6-4-93 along with the partial modification issued on 28-4-93 stand superseded. He concedes that in the order of 18-3-94 the name of the applicant does not figure along with the 65 junior engineers who have been now issued transfer order. In this context, it is his case that the order of 29-3-94 which reiterate/restore the earlier orders of 6-4-93/28-4-93 should be quashed. The applicant is prepared to receive any new order which may be issued in future by the Department after taking into account the relevant factors pertaining to transfers.

5. The learned counsel for the respondents argued that the order of 18-3-94 should be treated as an order superseding the previous orders of 1993 only with reference to the candidates (65 numbers) mentioned therein. It has not been stated anywhere in order of

18-3-94 that "all the" previous orders have been set aside. The other argument is that the order of 28-4-93 was issued only at the request of the applicant and the benefit of continuing in the erstwhile H.Qrs was granted as a special case. Partial modification was only to the extent of delaying the physical movement of the applicant upto 31-3-94 and the order of 6-4-93 still stands. On further discussion the learned counsel for the respondent also submits that there was no particular need for issuing the latest order of 29-3-94 pertaining to the applicant since the partial modification letter of 28-4-93 had allowed stay only upto 31-3-94 and the controlling officer could have acted on this itself to relieve the applicant to Jaipur. The subsequent order of 29-3-94 has been issued as a measure of precaution to ensure that there is no difficulty in passing the transfer dues etc.

6. Having heard the counsels on both sides I agree with the stand taken by the respondents. The order of 18-3-94 no doubt indicates that "supersession of 1993 orders" of the concerned office. But any supersession order could have relevance only to the particular individuals who have been listed out in the revised superseding order. The background of supersession was explained by the respondents namely that certain candidates who had asked for changes could perhaps be accommodated and taking this position into account supersession order of 28-3-94 was issued. I am also of the view that there was no particular need to issue a specific order namely the order dated 29-3-94 and it could have been proper for the controlling officer to have relieved the applicant on 31-3-94 when the grace

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period permitted by the partial modification order of 29-3-94 had expired. Be that as it may, the order of 29-3-94 cannot be faulted in the circumstances and the O.A. is dismissed accordingly.

7. While the O.A. was being heard finally, certain intervenors wanted to be impleaded vide their M.A.1256/94. However, the learned counsel prayed for withdrawal of this M.A. Therefore the M.A. is dismissed as withdrawn.

8. There will be no order as to costs.

P. T. Thiruvengadam

(P.T.THIRUVENGADAM)
Member(A)

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