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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1387 of 1994

Dated New Delhi, this ^{22nd th day of August, 1995.}

Hon'ble Shri B. K. Singh, Member(A)

Shri P. P. Aggarwal
S/o Shri D. C. Gupta
R/o Flat No.9, Kidwai Bhawan
Janpath
NEW DELHI.

By Advocate: Shri T. C. Aggarwal

... Applicant

versus

Union of India, through

Secretary
Ministry of Communications
Sanchar Bhawan
20 Ashoka Road
NEW DELHI.

By Advocate: Shri V. K. Rao

... Respondent

JUDGEMENT

Shri B. K. Singh

This O.A. No.1387/94 is directed against non-payment of honorarium from the period 13.1.90 to 31.5.90. The relief sought in the O.A. is that the applicant should be paid honorarium for the arbitration cases assigned to him from 1.1.90 to 31.5.90 and to pay interest on that amount.

A notice was issued to the respondents who filed their reply contesting the application and grant of reliefs prayed for.

Heard the learned counsel Shri T. C. Aggarwal for the applicant and Shri V. K. Rao for the respondents.

The admitted facts are that the applicant joined service in 1966 and on formation of the Delhi Mahanagar Telephone Nigam Limited was deputed to work as Deputy General Manager

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(Arbitration). It is admitted that for performing the job of an Arbitrator, an officer gets an honorarium of Rs.500/- i.e. Rs.400/- per case vide order No.4-30/92-TR dated 23.6.92 (Annexure A-2). The applicant was transferred by M.T.N.L. authorities to some other work under them. But he did not join in the new place of posting and continued in his old assignment from 1.1.90 to 31.5.90 (A.N.).

It is admitted that the applicant, during the relevant period, was on deputation to M.T.N.L. and the application itself shows that there were two respondents, viz., Secretary, Ministry of Communications and Chairman, M.T.N.L. Subsequently, M.T.N.L. has been deleted from the array of respondents. The applicant is not performing the job of Arbitrator under the respondent, Secretary, Communications. The arbitration work is a work entrusted to M.T.N.L. where there is a dispute between the subscribers and M.T.N.L. in the National Capital Territory of Delhi. Such cases as of inflated billing on telephones can be decided through arbitration or the aggrieved parties can also approach the competent courts. A perusal of the O.A. and the short reply both indicate that the reliefs claimed pertain to honorarium which can be granted only by M.T.N.L. and cannot be granted by the Secretary, Ministry of Communications.

The settled law is that when a man goes on deputation, he is under the authority which pays him his

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salary and other perks. The department offering the services only communicates general terms and conditions of deputation, but it cannot allocate to the person who is going on deputation to a Corporation or an Authority. It is for the competent authority where the officer is being deputed to assign work to him. The competent authority can allocate arbitration work or can give him any other work. The transfer is also within M.T.N.L. itself. As a matter of fact, it is only a change of work allotted to the applicant. He has not been recalled by the department for any other work. The applicant was transferred sometime in December, 1989 and he was expected to make over charge on 1.1.90. If he did not comply with the orders of the M.T.N.L. authorities, they were well within their rights to initiate disciplinary action for non-compliance of the transfer order, which they have not done. They have simply denied him the benefit of honorarium during the period he continued to stick to the old assignment and it is not known whether he disposed of any arbitration cases during that period or not and whether the competent authority in M.T.N.L. had allowed him to stay in that position from 1.1.90 to 31.5.90. If there was no order from M.T.N.L. to do that job and the applicant had been divested of that work, he is not entitled to claim any honorarium from them.

Secondly, there is no interpretation of law involved in this. A deputationist during the deputation

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period is under the control of the authorities under whom his services have been placed on deputation and the parent department only communicates the general terms and conditions of deputation and nothing else. It cannot determine the work which will be assigned to a deputationist by the borrowing Corporation or Authority. Deputation involves three parties, viz., the parent department, borrowing department and the person going on deputation. The settled law is that a person will go on deputation to a Corporation or Authority on the basis of his consent unless the parent department has divested itself of those functions and has transferred the employees performing those functions on deputation to be absorbed subsequently.

The learned counsel for the applicant has not been able to produce any order from the M.T.N.L. authorities to allow him to continue in his previous assignment performing the job of arbitration. Secondly, the honorarium has to be paid by M.T.N.L. and not by the Government which has sent him on deputation to M.T.N.L. There is no notification under Section 14(2) of the Central Administration Tribunal Act, 1985 to the effect that M.T.N.L. is under the jurisdiction of this Tribunal and, thirdly, I do not find any interpretation of law involved in this and accordingly, the application is dismissed as not maintainable because the honorarium or interest thereon will have to be paid by M.T.N.L. and not

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by the Government. Government has not assigned that work to him and, therefore, the Government cannot interfere in the internal matters of the M.T.N.L. regarding allocation of work to the deputationsts and, therefore, no relief can be granted by the Government. Relief, if any, can only be granted by the M.T.N.L. which has already rejected his prayer. M.T.N.L. not being notified under Section 14(2) of the Administrative Tribunal Act,1985, is not within the jurisdiction of this Tribunal and accordingly this petition does not lie and is dismissed in limini at the admission stage itself.

(B. K. Singh)
Member (A)

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