

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1179
T.A. No.

1989

DATE OF DECISION 7.6.1989

Shri Swami Nath

Petitioner

Shri R. Venkatappa Naik,

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Ajay Johri, Member(A)

The Hon'ble Mr. G. Sreedharan Nair, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether it needs to be circulated to other Benches of the Tribunal? Yes

MGIPRRND-12 CAT/86-3-12-86-15,000

(G. SREEDHARAN NAIR)
MEMBER(J)(AJAY JOHRI)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. OA 1179/89

Date of decision: 7.6.1989

Shri Swami Nath

..... Applicant

Vs.

Union of India & others

..... Respondents

Coram: Hon'ble Mr. Ajay Johri, Member(A)
Hon'ble Mr. G. Sreedharan Nair, Member(J)

For the Applicant

..... R. Shri Venkatappa Naik, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. G. Sreedharan Nair, Member(J)

We have heard Shri R.V.Naik, counsel appearing
on behalf of the applicant and have perused the records.

2. The applicant while functioning as Deputy Adviser,
Planning Commission was appointed as Private Secretary to the
Deputy Minister for Railways by the order dated 12.5.1988.
As is admitted by the applicant himself in his representation
dated 25.3.1988 he was selected as Private Secretary by the
Hon'ble Minister himself. By the order dated 20.4.1989
the applicant has been repatriated to his parent department. ^{39A}
He seeks to quash this order as violative of Articles 14, ³⁹⁹ 41
and 309 of the Constitution of India. It is alleged that as his
appointment was for a period of three years, before the expiry
of the term he should not have been repatriated. Counsel of
the applicant further submits that the order causes a stigma
on the applicant and as such it requires ~~interference~~ ^{interference}.

3. On a perusal of the records we are not satisfied
that this is a fit case for admission. From the Presidential
Order dated 7.11.1988, it is clear that the deputation of the
applicant to the post of Private Secretary to the Deputy
Minister is only for a period of one year or till the post
is actually required, whichever is earlier. It is on the
strength of the letter dated 6.5.1988 from the Deputy
Secretary, Department of Personnel and Training that a

(3)

case is built up that the appointment was for a period of three years. The said communication cannot override the Presidential sanction for deputation which is confined only for the period of one year which period has by now expired. Even going by the letter referred to by the counsel the appointment is to last only till he works as Private Secretary. When the applicant was selected by the Hon'ble Minister himself for working as his Private Secretary, if the Minister is of the view that his services are no longer required as Private Secretary, it is perfectly open to the Minister to direct repatriation. The post of Private Secretary stands on a separate footing from ordinary civil posts. It cannot be disputed that the Minister has the right to choose a person in whom he has confidence to function as his Private Secretary; when once for reasons which we are not to enquire into, the Minister has directed the repatriation, in our view, it is not open to challenge. The reason is obvious that the applicant has no vested right to the post of ~~Private Secretary~~.

4. It is seen from the endorsement made by the applicant himself on the order of repatriation that he has undertaken to hand over the papers etc. ^{and have} will be done in a few days " after joining the Planning Commission". It is also seen from the representation submitted by him to the Cabinet Secretary on 23.5.1988 that the requests made by him are only for making arrangement for the disbursement of his salary till he gets his posting elsewhere, for restoration of his official telephone and for considering him for Central deputation. There is no complaint against the repatriation as such. It is significant that the applicant has no definite case of ~~any~~ mala fide~~s~~. Even in the body of the application, the averment is only to the effect that the impugned order " is stemmed with malafide intentions". ^{in general} We are unable to spell out any mala fide~~s~~ at all from the

averments in the application. As such the reliance placed by counsel on the decision of the Supreme Court in Express Newspapers' case is of no avail.

5. We reject the application.

G.S.Nair (6/6/89)
(G.SREEDHARAN NAIR)
MEMBER(J)

AJAY JOHRI
(AJAY JOHRI)
MEMBER(A)

7.6.1989