

CAT/7/12
(601)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

CCP O.A. No. 2477/89 and
TAX No. 136/90

199

DATE OF DECISION 26.7.1991

Shri P.N. Bahuguna

~~Petitioner~~ Applicant

Shri S.K. Bisaria

~~Advocate for the Petitioner(s)~~ Applicant

~~Union of India through Secy.,
Miny. of Transport & Civil Aviation & Urs.~~ Respondent

Shri Y.K. Jain

Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhaundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement? */No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who has worked in the Office of the
Director General of Civil Aviation and has been absorbed in
the National Airport Authority with effect from 2.10.1989,
filed this application under Section 19 of the Administrative
Tribunals Act, 1985 praying for the following reliefs:-

(i) To quash the order dated 28.8.1989 reverting
him from the post of Assistant Aerodrome
Officer and letters dated 7.11.1989 and
8.11.1989;

(ii) To declare him as regular Assistant Aerodrome
Officer with effect from 4.6.1984; and

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(iii) to regularise his leave from 1.9.1984

to 30.5.1986, according to rules.

2. The application was filed in the Tribunal on 11.12.1989. On 8.1.1990, the Tribunal passed an interim order to the effect that the respondents shall not give effect to the impugned orders dated 28.8.1989 and 7.11.89. On 12.10.1990, the Tribunal passed another order on MP-2478/90 filed by him to the effect that the respondents shall not dispossess him of the Government accommodation in his occupation and that they shall not disconnect the electricity and water connections to the said quarter.

3. The facts of the case in brief are as follows. The applicant joined service of the respondents as Aerodrome Operator, Grade I (Trainee) in 1966. He was appointed on a regular basis as Aerodrome Operator, Grade I in 1967. He was promoted as Aerodrome Assistant in December, 1981. He was promoted as Assistant Aerodrome Officer on ad hoc basis w.e.f. 11.6.1984. He was transferred from Palam Airport, New Delhi to Bombay Airport w.e.f. 1.9.1984. According to the respondents, he did not report for duty at Bombay Airport and instead was on unauthorised absence from 1.9.1984 to 30.5.1986. He joined duty at Bombay Airport only on 31.5.1986, i.e., a day prior to formation of National

Airport Authority w.e.f. 1.6.1986. His application for grant of leave from 1.9.1984 to 26.10.1985 was submitted on 19.9.1985 and for extension of leave from 27.10.1985 to 25.1.1986, on 24.12.1985. Thus, according to them, he did not apply for leave in time. They did not sanction the leave and the period of unauthorised absence was treated as dies non. The version of the applicant is that he had remained on leave on account of the sickness of his wife, son and himself. He has stated that earned leave and half average pay leave were due to him and, therefore, the decision of the respondents to treat the period as dies non, is arbitrary and illegal.

4. With regard to his reversion from the post of Assistant Aerodrome Officer to that of Aerodrome Assistant, the applicant has contended that though he was eligible for promotion under the rules, he was not promoted while persons junior to him have not been so reverted and that the action of the respondents is illegal. According to the respondents, the persons junior to the applicant who were promoted, belonged to S.C./S.T. categories in the quota earmarked for them. So far as the other officials are concerned, the respondents have stated that they were considered by the D.P.C. for promotion on regular basis. The applicant's name was also considered by the D.P.C.

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for promotion on regular basis, along with others. The post of Assistant Aerodrome Officer is a selection post to be filled by promotion (25%) and direct recruitment (75%). The applicant was not found suitable for promotion on regular basis in view of his Annual Confidential Reports.

5. We have gone through the records of the case and have heard the learned counsel for both the parties. In our opinion, the Tribunal has jurisdiction to adjudicate upon service matters of the applicant till he was absorbed in the National Airport Authority w.e.f. 2.10.1989. After that date, this Tribunal has no jurisdiction to adjudicate upon service matters of the applicant in the absence of a notification issued under Section 14(2) of the Administrative Tribunals Act, 1985. The issues raised in the present application pertain to the period before he became an employee of the National Airport Authority.

6. We see no illegality in the impugned orders of reversion of the applicant from the post of Assistant Aerodrome Officer to that of Aerodrome Assistant, as his suitability for promotion was also considered, along with others and he was not found fit for promotion. The post of Assistant Aerodrome Officer is a selection post. He has held the post of Assistant Aerodrome Officer only on

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an ad hoc basis. The juniors, who were promoted, belonged to the reserved category in their own quota, or on the basis of their comparative merit as adjudged by the D.P.C. a

7. With regard to the regularisation of the period of absence from 1.9.1984 to 30.5.1986, the applicant has contended that the period was treated as 'dies non' without taking into account the earned leave and half pay leave due to him and admissible under the rules. If that be so, there will be some force and merit in his contention.

8. In the conspectus of the facts and circumstances of the case, we partly allow the application and direct the respondents to regularise the leave of the applicant for the period from 1.9.1984 to 30.5.1986 by granting him earned leave, half pay leave and other kinds of leave admissible to him in accordance with the relevant rules. They shall comply with this direction within a period of one month from the date of receipt of this order. The interim order passed on 12.10.1990 will stand vacated on 1.10.1991.0

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9. The prayer contained in this C.C.P. is that the respondents be hauled up for having committed contempt as they did not comply with the order dated 8.1.1990 passed by the Tribunal directing that the ~~wxx~~ respondents shall not give effect to the impugned orders dated 28.8.89 and 7.11.1989. By order dated 28.8.1989, the applicant was intimated about his reversion w.e.f. 1.6.1986. The

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order dated 7.11.1989 refers to the order dated 28.8.89 and states that the Chairman, National Airport Authority, has intimated that he has been promoted to the grade of Assistant Aerodrome Officer on ad hoc basis w.e.f. 2.6.86 to 29.6.1989 and that by order dated 23.10.1989, he has been reverted with effect from 1.7.1989.

10. As already stated in para.5 above, this Tribunal has no jurisdiction over the National Airport Authority which has issued the aforesaid orders after the applicant was absorbed as their employee with effect from 2.10.1989.

11. We see no merit in the C.C.P. and the same is dismissed. The notice of contempt is discharged.

B.N. Dhadial
(B.N. Dhadial) 26/7/91
Administrative Member

P.K. Kartha
26/7/91
(P.K. Kartha)
Vice-Chairman(Judl.)