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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

REGN. NO. 419/89

Date of decision 29.03.1989.

Shri M. Venkateswara Iyer

.....Applicant

Vs.

Union of India

.....Respondents

For the applicant

.....Shri D.K. Nag, A.P.
Vinoth, Counsel.

For the respondents

.....Shri P.H. Ramchandani,
Counsel

CORAM:

THE HON'BLE MR. B.N. JAYASIMHA, VICE CHAIRMAN(A)

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT (ORAL)

The applicant has filed the present application under Section 19 of the Administrative Tribunals Act, 1985 praying that the impugned order dated 22.9.1988 (Annexure-I) be quashed and set aside, that the respondents should be directed not to relieve him from service under the Government of India and that they should not appoint him in the Indira Gandhi National Centre for Arts (IGNCA). We have heard the learned counsel of both parties at the admission stage.

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2. The impugned order dated 22.9.1988 is an Office Memorandum issued by the Department of Personnel and Training, (Office of the Establishment Officer) addressed to the Department of Industrial Development, wherein it has been stated that the Appointments Committee of the Cabinet have approved the proposal to appoint the applicant as Director in the IGNC, New Delhi in the pay scale of Rs.4500-5700. The said appointment will be upto 31st May, 1990 subject to a maximum period of 5 years.

3. The contention of the applicant is that his proposed appointment to the IGNC is without obtaining his consent and that it amounts to foreign service within the meaning of F.R.110(a).

4. F.R.110(a) provides that "no Government servant shall be transferred to foreign service against his will". The proviso under that sub-rule is to the effect that "it shall not apply to the transfer of a Government servant to the service of a body, incorporated or not, which is wholly or substantially owned or controlled by the Government."

Shri P.H. Ramchandani appearing for the respondents heavily relied upon the aforesaid proviso and stated that the posting of the applicant as Director in IGNC was in order. We have seen the Deed of Declaration of the IGNC and we are satisfied that it is a body controlled by the Government of India. In view of this, we are of the view that there is no need to take the consent of the applicant before posting him to the IGNC.

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5. The main grievance of the applicant is that the terms, and conditions of the proposed appointment have not been spelt out in the impugned Office Memorandum dated 22.9.1988. Shri P.H. Ramchandani, the learned counsel for the respondents stated that pursuant to the said Office Memorandum dated 22.9.1988, the Department of Arts will issue the terms and conditions of deputation/foreign service of the applicant and it will be in accordance with the normal terms of deputation applicable to the officers sent on deputation. The learned counsel for the respondents also stated that the respondents would endeavour to give alternate accommodation to the applicant in accordance with the relevant rules and instructions, *although the applicant is not legally entitled to it.* On

6. In the circumstances of the case, we are of the view that the consent of the applicant is not required for the proposed deputation. In view of the submissions made by the learned counsel of the respondents that the normal terms of deputation would apply to the applicant, we see no reason to issue any directions to the respondents in this regard.

7. Having regard to the apprehension of the applicant that he will be asked to vacate the present quarter allotted to him, we direct that the applicant shall be allowed to continue in the Government accommodation which is presently under

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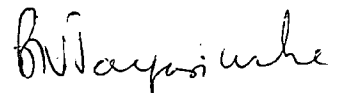
his occupation till he is given alternative accommodation.

8. The application is disposed of at the admission stage itself with the above observations. The parties will bear their own costs.

9. A copy of this order may be given to the counsel of both parties.



(P.K. KARTHA)
VICE CHAIRMAN(J)



(B.N. JAYASIMHA)
VICE CHAIRMAN(A)