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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1700 / 1988
T.A. No.

DATE OF DECISION 3.11.1988.

Surat Singh ~~Petitioner~~ Applicant.

Shri B. S. Mainee ~~Advocate for the~~ Applicant.
~~Petitioner(s)~~

Versus

Union of India Respondent


Shri P.H. Ramchandani Advocate for the Respondent(s)


CORAM :

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

The Hon'ble Mr. Kaushal Kumar, Member (A).

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? *No*
4. Whether to be circulated to other benches? *No*


(KAUSHAL KUMAR)
Member(A)


(P.K. KARTHA)
Vice-Chairman.

3.11.1988.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1700/88. DATE OF DECISION: 3.11.1988.

Surat Singh Applicant.

V/s.

Union of India Respondent.

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman.
Hon'ble Mr. Kaushal Kumar, Member (A).

For the applicant Shri B.S. Mainee, Counsel.

For the Respondent Shri P.H. Ramchandani, Sr.
Standing Counsel.

(Order of the Bench delivered by
Hon'ble Mr. Kaushal Kumar, Member)

The applicant who is working as a Computer (Sr. Scale), S.I.D. Central Statistical Organisation, Ministry of Planning, Government of India, has in this application filed under Section 19 of the Administrative Tribunals Act, 1985, questioned the order communicated to him vide Memorandum dated 17th November, 1987 whereby he was informed that "he cannot be absorbed in Cadre of Computers (Sr. Scale) in the CSO, New Delhi. However, on compassionate grounds, at his request, he can be allowed to continue as Computer (Sr. Scale) in CSO, New Delhi with the clear understanding that he will not be considered for any promotion to a higher post in the I.S. Wing, Calcutta or in CSO, New Delhi. This decision will be equally applicable in the case of Shri M.S. Panwar, Sr. Computer also."

2. The contention of the learned counsel Shri Mainee appearing for the applicant is that as per the appointment letter dated 1st May, 1962, the place of duty of the applicant was indicated therein as New Delhi and, therefore, he could not be transferred to another place outside his Cadre and promotion could not be denied to him while he remained in Delhi. Term and condition No. (iii) in the Memorandum dated 1st May, 1962 relied upon by Shri Mainee

Shri Mainee

reads as follows: -

"The place of duty is New Delhi, but the appointment carries with it the liability to serve in any part of the Indian Union."

The learned counsel also referred to several representations which the applicant made in this connection.

3. The learned counsel Shri P.H. Ramchandani, appearing for the respondents, took a preliminary objection that the present application is time barred inasmuch as the applicant had been informed as early as 1966 when he was confirmed against the post of CSO that the confirmation was against the post of CSO, I. S. Wing, Calcutta.

4. The learned counsel Shri Ramchandani has produced office order No.96/66 dated 6th August, 1986 which reads as follows: -

"The following working against the post of C. S. O. I. S. Wing, Calcutta are confirmed in the post of Computer (Sr. Scale) with effect from 8th May, 1964.

.....

2. Shri Surat Singh"

A copy of this order was endorsed to the applicant.

5. As regards the preliminary objection raised by Shri P.H. Ramchandani, counsel for the respondent, regarding limitation, we do not think that the present application is barred by limitation. Section 21 read alongwith Section 20 of the Administrative Tribunals Act clearly states that the limitation is to run from the date when the final order is passed or an appeal or representation is disposed of and not from the date when the cause of action had actually arisen. This matter has been dealt with in B. Kumar v. U.O.I. (A.T.R. 1988 (1) CAT I - O.A. 194/1986) to which one of us (Shri Kaushal Kumar) was a party. Where no representation has been made, entertained or disposed of on merits, the date when the cause of action arose would be relevant for the purpose of deciding the question of limitation, but where a representation has been entertained and disposed of on merits as in the present case,

the limitation has to run from the date of such disposal as per provision of Section 21. In the present case, the impugned order was passed on 17.11.87 and the present application having been filed within one year of the passing of the said order, the preliminary objection of limitation is over-ruled.

6. However, on merits, we are satisfied that there is no change of cadre involved. The appointment letter itself clearly shows that whereas the place of duty of the applicant was New Delhi at the time of his appointment, the appointment carried with it the liability to serve in any part of the Indian Union. Condition No. (iv) of the said letter of appointment also states that "other conditions of service will be governed by the relevant rules and orders in force and issued from time to time."

7. The confirmation order issued on 6th August, 1966 referred to above clearly states that the confirmation was against the post of I.S. Wing, Calcutta. Again when the applicant was appointed to officiate as Computer (Senior Scale) with effect from 27th January, 1969 vide Office Order dated 12th February, 1969, it was stated in the endorsement as follows: -

"The appointments have been made against the two posts of Computers (Senior Scale) transferred from C.S.O. (I.S. Wing), Calcutta, vide this Department Order of even number dated the 27th January, 1969."

A copy of this office order No.12/69 dated 12th February, 1969 was also endorsed to the applicant. The applicant was also informed vide Memorandum dated 20th June, 1969 that he was working against the posts of Computer (S.S.) belonging to the Industrial Statistics Wing, CSO, Calcutta and that he was in the zone of promotion to the post of Statistical Assistant in that office. The said Memorandum dated 20th June, 1969 is reproduced below: -

" The undersigned is directed to inform



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Sarvashri Mohan Singh and Surat Singh, who are working against the posts of Computer (S.S.) belonging to the Industrial Statistics Wing, CSO, Calcutta, that they are in the zone of promotion to the posts of Statistical Assistant in that office. They may, therefore, state immediately, whether they would be willing to be transferred to the I.S. Wing, Calcutta, if they are promoted to the posts of Statistical Assistant."

While acknowledging receipt of the said Memorandum and representing for his promotion in New Delhi itself, the applicant did not question the fact that he was on the strength of Industrial Statistics Wing, CSO, Calcutta. Shri Mainee referred to the representation which was made by the applicant on 3.9.1971. Para 3 of the representation runs as follows: -

"(3) That I may also draw your kind attention the Department of Statistics Memo Nos. D-3033/69 Estt-I dated 20th June, 1969, Dy. 3794/69 Estt-I dated 29th August 1969 and Dy. 5990/69 Estt-I dated 15th September, 1969 in which I was informed that I was in the zone of promotion to the post of Statistical Assistant. I requested the Department of Statistics that as the post of Computer (Senior Scale) belonging to I.S. Wing, Calcutta against which I am at present working, was transferred to C.S.O. New Delhi, in a similar manner the post of Statistical Assistant may also be transferred to C.S.O. New Delhi and I may kindly be promoted against the post of Statistical Assistant and allowed to continue to work in C.S.O. New Delhi. However, my request was turned down by the Department of Statistics and promotion was given to the another person who was junior to me."

This representation merely shows that in 1971 the applicant requested that the post of Statistical Assistant should be transferred from Calcutta to New Delhi and he should be promoted against the said post at New Delhi. Merely because the applicant had represented against his being shown on the strength of I.S. Wing, Calcutta does not advance his case

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in so far as the correct position in regard to his cadre is concerned. The learned counsel has not been able to produce any document showing that the applicant was ever shown in the seniority list of the Delhi office.

8. Although the cadre of an employee cannot be changed without his consent, this is not a case which involves change of cadre. It is clear from the documents produced before us that the applicant has all along been borne on the strength of I. S. Wing Calcutta and that he was only asked to work in Delhi. His confirmation and promotion were all against the posts borne on the strength of the Calcutta office and the applicant was fully aware of this position.

9. Shri Mainee, learned counsel for the applicant, vehemently argues that clause (iii) of the appointment letter dated 1st May, 1962 shows that place of duty of the applicant was New Delhi and this could not be changed retrospectively without the consent of the applicant. We are of the view that there has been no change in the terms and conditions of the appointment. The letter dated 1st May, 1962 made it clear that the appointment carried with it the liability to serve in any part of India. Merely because the place of duty was New Delhi at the time of initial appointment cannot be the basis for the wrong assumption on the part of the applicant that he was borne on the strength of Delhi office. We do not see any merit in the present application which is accordingly rejected at the time of admission.


(KAUSHAL KUMAR)
Member(A)


(P.K. KARTHA)
Vice-Chairman

3.11.1988.