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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No.1035/88

Date of decision: 22.9.1993

Shri Rajbir Singh

Vs. Union of India & Ors.

CORAM:

Hon'ble Member Shri C.J. Roy, Member(J)

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

For the applicant .. Shri R.L. Sethi

For the respondents .. Mrs. Raj Kumari Chopra

JUDGEMENT(ORAL)

(Delivered by Hon'ble Member(J) Shri C.J. Roy)

Heard Shri R.L. Sethi, learned counsel for the applicant and Mrs. Raj Kumari Chopra, learned counsel for the respondents.

2. This application is filed by the applicant who was appointed as Orderly in the Indian Embassy, BONN, West Germany claiming that his premature repatriation is against the law and that his repatriation order may be quahsed and he should be posted back to BONN.

3. The learned counsel for the applicant says that the applicant was not given reasonable opportunity of being heard and his repatriation is violative of natural justice.

4. We have gone through the records. The terms and conditions of the appointment order No.A/01678/MI/FO(OA) dated 16.12.86 are as follows:

(a) You shall serve and continue to be in service of the Military Attache for a period of three years commencing from the date of your arrival at Bonn (West Germany);

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(b) You shall during the period of your service work honestly, efficiently and diligently under orders of the MA of his staff under whom you may be placed, and discharge your duties to the satisfaction of the MA and to proceed to such other places in West Germany and perform such other duties as the MA may order;

(c) In the event of any misconduct on your part or any disregard or breach of orders given by your superiors in the lawful execution of the duties, you will be repatriated to India before completion of your tenure;

(d) You will be required to give an undertaking on a prescribed form that you will serve the Government of India for a period of three years at Bonn and that you will refund to the Govt. the expenditure incurred on account of passages and other travelling expenses in connection with your transfer abroad in the event of your resigning from service before completion of the prescribed tenure or asking for your premature repatriation to India; and

(e) Your selection to the appointment is subject to your being medically declared fit by the Medical Authorities.

5. We see that the condition (c) above is more important here which says that in the event of any misconduct etc. on the part of applicant, he would be repatriated to India before completion of his tenure.

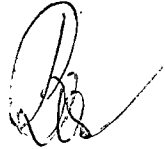
6. The applicant has not asked for any other relief like bringing of baggage etc. as claimed by his learned counsel now *present a petition which is not present.*

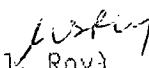
7. It is stated in the counter reply in para 6.4 that the applicant was posted to Bonn for a period of 3 years and could be repatriated to India prematurely on disciplinary grounds. He was also issued with a show cause notice vide Annexure VII for which the applicant has replied and the disciplinary proceedings were initiated against him by the Brigadier himself with whom he was attached.

8. The learned counsel for the applicant stated that the charges of misconduct on the part of the applicant were not relevant as he was on leave in India. However it is seen from the records that the applicant was on leave from 16.2.88 whereas all the charges of misconduct etc. were prior to this date when he was in BONN. Therefore the contention of the learned counsel for the applicant can not be accepted.

9. We have also seen the rejoinder which is more or less repetitive in nature.

10. The recommendation of the Brigadier with whom the applicant was attached has been endorsed by the Indian Ambassador at Bonn and therefore we have no reason to disbelieve his endorsement, especially when the applicant is posted in a place where his conduct is reported to be of potential security risk. Therefore, we see no reason to interfere in this case. The repatriation order passed by the respondents is in order and the applicant has not made out a case for our consideration. Hence the application is dismissed with no order as to costs.


(B.K. Singh)
Member(A)
22.9.93


(C.J. Roy)
Member(J)
22.9.93