

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 35 1986
T.A. No.

DATE OF DECISION 16.4.1986

Shri Y.P. Gupta Petitioner

Shri E.X. Joseph Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri M.L. Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Member

The Hon'ble Mr. H.P. Bagchi, Judicial Member

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

JUDGEMENT

The petitioner has come up under Section 19 of the Administrative Tribunals Act praying that the impugned order No.283/C-A-38020/1/85 dated 7.11.1985 ordering premature retirement of the applicant with effect from 8.2.1986 should

be set aside or in the alternative to direct the respondents to post the petitioner in any other Government of India Press and observe his performance for one year before retiring him prematurely.

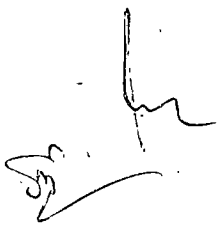
2. The brief facts of the case which are not in dispute can be summarised as follows. The applicant has been working as Reader in the Government of India Press, Rashtrapati Bhavan, in the scale of Rs.330-560 and allowed to cross Efficiency Bar on 1.3.1979. In February 1976 Shri P.D. Sharma working in the Government of India Press, Minto Road, was transferred to Rashtrapati Bhavan Press immediately above the petitioner to take over from Shri R.G. Bux who was to retire in April 1983. By this transfer the chances of promotion of the petitioner on the retirement of Shri Bux receded and the applicant submitted a representation on 11.3.1982 requesting that Shri P.D. Sharma may be sent back to his original post. This was followed by ^{his} other representations on 20.12.1982, 8.2.1983, 4.3.1983, 21.3.1983, 6.5.1983 and 3.6.1983. According to the petitioner these representations angered Shri P.D. Sharma and his seniors. There was no response on his representations but on 4.6.1983 he was sternly informed that Shri P.D. Sharma will continue and "no further correspondence is required in this respect in future". From 1982 onwards the petitioner started getting adverse reports recorded by Shri P.D. Sharma and accepted by his seniors. On 30.9.1983 the applicant again submitted

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representations to get him transferred from Rashtrapati Bhavan printing press to some other unit. The official documents also indicate that one of the Joint Secretaries who was a member of the Appeals Committee, after perusing the CR observed that the performance of Shri Gupta appeared to have gone down suddenly from average to poor from 1980 onwards upto 1983. Shri Sharma happened to be posted to Rashtrapati Bhavan printing press from 1979 onwards. Thus there is a manifest correlation and nexus between the sudden alleged deterioration in the performance reports on Shri Gupta and Shri Sharma's posting in Rashtrapati Bhavan printing press.

4. We are reaffirmed in our suspicion about the aforesaid correlation and existence of an element of prejudice against Shri Gupta by the admitted fact that the Review Committee which met in 1984 to consider the appeal of the petitioner against the first order of compulsory retirement, did appreciate the aforesaid background and against that backdrop recommended that the performance of Shri Gupta, the petitioner, should be observed for one more year, and accordingly in November 1984 he was given one year's extension after which his case was again to be reviewed on the basis of a special report on his performance.

5. Unfortunately for everybody and especially the petitioner the obvious fact was lost sight of that since the extension was being given on the explicit ground of alleged prejudice against him harboured by



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another representation for the repatriation of Shri P.D. Sharma. On the other hand the adverse reports of 1982 were repeated during 1983 also. On 1.8.1983 the applicant was given a notice of compulsory retirement in public interest. The applicant represented against this and filed a writ petition on 22.10.1984 alleging that the order was irregular, malafide and unjust. On 17.11.1984 he was informed that his representation was considered by the Review Committee (Appeals) and it has decided to extend the service of the applicant for one year after which the case would be put up for reconsideration. A performance report was also called in July as for such reconsideration. On this, applicant withdrew the writ petition from the High Court of Delhi. However the applicant was posted back to his original desk during the extended period i.e. under Shri P.D. Sharma for whose repatriation he had incurred the latter's animus. On the basis of the report about his performance during 1984-85 given ^{under} vindictiveness the impugned order of compulsory retirement was passed on 7.11.1985.

3. We have heard the arguments of the learned counsel for both the parties at length and gone through the various documents. The CR dossier and the concerned file of the Ministry also were shown to us and perused by us. We have no doubt whatsoever in our mind that the petitioner had incurred considerable element of opprobrium and animus from his immediate superior Shri P.D. Sharma because of his repeated

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his immediate superiors, the special report for objective assessment of his performance would be meaningful only if his performance is assessed in other offices or by other officers and superiors who had nothing to do with him till the end of 1984. Unfortunately the petitioner was continued to work under Shri Sharma and his superiors against whom the petitioner had alleged prejudice. The inevitable had to happen and it did happen. The special report which was given in July 1985 again contained the same type of adverse assessment as bedevilled the reports of the petitioner between 1980 and 1983. On the basis of the special report which was given prematurely in July 1985 the Review Committee recommended and the Government retired the petitioner compulsorily from 18.2.1986.

6. Having given our careful consideration to the whole conspectus of circumstances and facts we feel that the modicum of justice and fairplay which was intended to be made available to him by the Appeal Committee and the Secretary of the Department by giving the petitioner an extension of one year for an objective assessment, was denied to him by the quirk of circumstances which placed him in the same position of a hostile ambience against which he had represented earlier. The results of a fair and objective assessment of his work by an impartial agency was thus not available to the Review Committee or the Government. We feel that this is a clear case in which the Tribunal should intervene so that justice is done to the petitioner as was also intended by the Government.

7. In the circumstances of the case we allow the petition and quash the impugned order dated 7.11.1985 and direct that the petitioner should be given one year's further extension and posted in a Government Press other than the Rashtrapati Bhavan press for an objective assessment of his performance and the Review Committee should consider his case afresh in February 1987 and make suitable recommendations to the Government after obtaining a special report on his performance from the Head of the organisation where he is posted. In the circumstances of the case there will be no order as to costs.


(H.P. BAGCHI)


(S.P. MUKERJI)