

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

431

198 6.

DATE OF DECISION 23.6.1986.

Shri Amrik Singh

Petitioner

S/Shri J.S.Bali and R.L.Sethi, Advocate for the Petitioner(s)

Versus

Union of India

Respondent

None.

Advocate for the Respondent(s)

CORAM :

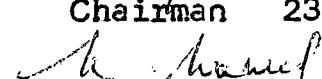
The Hon'ble Mr. Justice K.Madhava Reddy, Chairman.



The Hon'ble Mr. Kaushal Kumar, 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*
4. Whether to be circulated to all Benches? *Yes*


(K.Madhava Reddy)
Chairman 23.6.86.


(Kaushal Kumar)
Member 23.6.86.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

REGN. NO. OA 431/86

23.6.1986

Shri Amrik Singh Petitioner

Vs.

Union of India Respondents

CORAM: Shri Justice K. Madhava Reddy, Chairman
Shri Kaushal Kumar, Member

Petitioner Through S/Sh. J. S. Bali & R. L.
Sethi, counsel.

Respondents None.

(Judgement of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman)

This is a petition filed by a member of an All India Service (I.A.S.) who was on deputation with the National Seeds Corporation Limited. His deputation was approved on "immediate absorption basis for a period of two years until further orders. His terms of deputation shall be governed by the general order of the Bureau of Public Enterprises in this regard." He accordingly joined the National Seeds Corporation Ltd. as a General Manager on 6.7.1984. The period of two years deputation will expire on the afternoon of 5.7.1986. At a meeting of the Board of Directors of N.S.C. Ltd. held on 27.5.1986 in regard to the retention of the applicant's services the following resolution was adopted:-

" Item No.8: Retention of the services
of General Manager(Admn)

The Board after considering the entire facts of the case, unanimously decided as follows:-

1. NSC need not accept the services of Shri Amrik Singh, General Manager (Admn) on permanent absorption basis.
2. Shri Amrik Singh may be repatriated to his parent department at the expiry of his two years period from the date of his joining the Corporation.



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3. Shri Amrik Singh may be given full responsibility of General Manager(Admn) during the remaining period of his tenure in NSC. "

It is this resolution which is challenged in this application, firstly on the ground that since he was on deputation on immediate absorption basis he should be absorbed and secondly on the ground that he cannot be repatriated to Punjab.

2. In view of the clear terms of the applicant's deputation, it is difficult to accept the petitioner's contention that he must necessarily be absorbed permanently in the N.S.C. Ltd. Though he was sent on immediate absorption basis on deputation for a period of two years he was in fact not absorbed within the period of two years. In our view, from the terms subject to which the Appointments Committee ~~approved~~ his deputation, the petitioner was to be on deputation for a period of two years and within this period of two years he may be absorbed or at the end of this period he may be repatriated. The absorption in an organisation of any person on deputation requires the consent of both the organisation and the deputationist. It cannot be denied that the deputationist continues to have the option to request for his repatriation to his parent department where he holds a lien on a post. Likewise the organisation to which he is deputed too would have the right to judge his performance and its own requirement and decide upon the advisability or otherwise of his absorption in the organisation. It cannot be compelled to absorb a deputationist. The deputationist has ~~a~~ ^{no} unilateral right to be absorbed in the organisation to which he is deputed. Absorption can only be by mutual consent.

3. In the case of N.S.C. Ltd. the management is vested in the Board of Directors and its powers are subject to the direction of the President issued under Article 145 of the

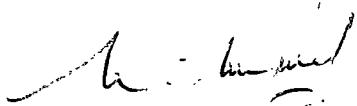


Articles of Association of NSC Ltd. The applicant claims that a direction of the President of India, envisaged by Article 145 of the Articles of Association of NSC Ltd. was issued to absorb him forthwith. No such direction is produced before us. Except the proceedings of the Appointments Committee of the Cabinet communicated in letter No. 9/66/83-(MM) dated 4.7.84(A copy of which was not communicated to the petitioner) no other proceedings have been produced before us. Proceedings of the Appointments Committee do not constitute a direction of the President of India, envisaged by the Article 145 of the Articles of Association. Even otherwise from the wording of the proceedings also it cannot be treated as a direction to absorb the petitioner in N.S.C. Ltd.. In the absence of any such direction the resolution of the Board of Directors must prevail and when the Board of Directors have resolved that he may be repatriated to his parent department on completion of his two years' deputation the petitioner does not have any right to be retained with the N.S.C. Ltd.

4. The next question that arises is whether the N.S.C.Ltd. acted illegally in repatriating the petitioner to Punjab and whether this Tribunal would be justified in directing his posting at any other place. It is common ground that the petitioner belongs to Punjab Cadre and his parent department is under State Government of Punjab. A person on deputation can only be repatriated to his parent department. Shri Bali, the learned counsel for the petitioner, however, pleads that the applicant is on 'hit list' and if he ^{is} posted in Punjab to which cadre he belongs, we would be only exposing him to being liquidated by the terrorists who have him on their 'hit list'. We have no material to express any opinion in this regard. But even if it be so it does not lie within the powers of this

Tribunal to direct the posting of an officer of the Punjab Cadre outside that State. That is a matter which lies within the power and discretion of the President or the Central Government. It is open to the petitioner to make his representation in this behalf and it would be for the authorities concerned to consider his posting at any place other than Punjab. All that we are concerned in this petition is whether the resolution of the NSC Ltd. resolving to repatriate the petitioner to his parent department on the expiry of two years of deputation deserves to be quashed. As discussed above, the petitioner has no unilateral right to be absorbed in the Corporation and the Corporation is not obliged by the terms of the deputation, approved by the Appointments Committee, to necessarily absorb him at the end of two years. This petition, therefore, fails and is accordingly dismissed. It is however made clear that nothing said herein would prevent the applicant from making representation before the appropriate authority and the appropriate authority issuing such directions as to posting as it may deem fit.


(K. MADHAVA REDDY)
CHAIRMAN
23.6.1986


(KAUSHAL KUMAR)
MEMBER
23.6.1986

The typographical errors in page 2 of the Judgment in AMRIK SINGH Vs. UNION OF INDIA (O.A.431/86) shall be corrected as under:

"On page 2 of the Judgment, AMRIK SINGH Vs. UNION OF INDIA (O.A.431/86) in line 29 or line 6 from bottom there is a typographical error. Instead of the word "a" occurring therein the word "No" should be typed. The correct sentence after substitution of the word "No" reads as follows:

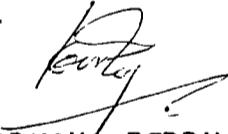
"The Deputationist has no unilateral right to be absorbed in the organisation to which he is deputed. Absorption can only be by mutual consent."



KAUSHAL KUMAR

Member.

25-8-1986.



K. MADHAVA REDDY,
Chairman.

25-8-1986-