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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 895 198 6.
T.A. No.

DATE OF DECISION October 24, 1986.

Shri D.C. Sankhla (IAS) **Petitioner**

Shri K.L. Sharma, Sr. Advocate with Advocate for the Petitioner(s)
S/Shri R.K. Kapoor & B.R. Kapoor, Advocates
Versus

Union of India and others **Respondent s.**

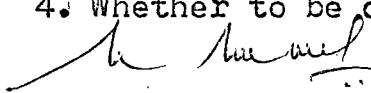
Shri M.M. Sudan, **Advocate for the Respondent(s)**

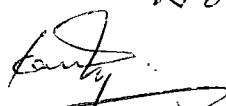
CORAM :

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 other Benches? *No*


(Kaushal Kumar)
Member
24.10.1986.


(K. Madhava Reddy)
Chairman
24.10.1986.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. CA 895/86 .

October 24, 1986.

Shri D.C.Sankhla (IAS)

Applicant

Versus

Union of India and others

Respondents.

CORAM:

Shri Justice K.Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For the Applicant, ...

Shri K.L.Sharma, Sr.Advocate
with S/Shri R.K.Kapoor &
B.R.Kapoor, Advocates.

For Respondents

...

Shri M.M.Sudan, Advocate.

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

This is an Application under Section 19 of the
Administrative Tribunals Act by the Chairman, Delhi
Tourism Development Corporation (D.T.D.C.) to quash the
order No.F.8(1)/86-SI(V.II) dated 18.9.1986 made by the
Administrator, Union Territory Delhi and issued under
the signature of/Joint Secretary (Services), Delhi
Administration (Services I Department), Delhi, Respondent
No.2 herein. By that order the applicant who is at present
the Chairman of DTDC is transferred and posted as
Executive Officer, Delhi Khadi & Village Industries Board
and in his place the 4th respondent herein is posted.
We may notice at the outset that the Applicant had
initially moved the Delhi High Court in CWP 2071/86
to quash this very order. Upon an objection taken by
the Respondents to the jurisdiction of the High Court
to entertain this Writ Petition after the constitution of
the Central Administrative Tribunal under Section 4(1)

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of the Administrative Tribunals Act, the Applicant withdrew that Writ Petition and filed the present application.

The principal contention of the Applicant is that he was appointed for a fixed term of one year as Chairman of the DTDC under Notification No.F.1(38)/TSM/Tpt/85 dated 28.7.1986 and that before the expiry of the said term of one year, his appointment as Chairman, DTDC could not be terminated under the guise of a transfer. His further contention is that this transfer is arbitrary and mala fide.

Shri M.M. Sudan, counsel on behalf of the Respondents, appears and opposes the admission of the application. We have heard the parties at length even at the admission stage. In order to appreciate the contention, it is necessary to read the order of appointment which is as follows:-

" DELHI ADMINISTRATION, DELHI
(DIRECTORATE OF TRANSPORT AND TOURISM)
5/9, UNDER HILL ROAD, DELHI.

NOTIFICATION

No.F.1(38)/TSM/Tpt/85. Dated:

In exercise of the powers conferred by clause (B) and (C) of article 45 of the Articles of Association of Delhi Tourism Development Corporation Ltd; The Lt. Governor of the Union Territory of Delhi is pleased to appoint and nominate Sh.D.C.Sankhla, Chairman and nominate Sh.G.S. Chima, Managing Director on the Board of Directors of the aforesaid Corporation untill further orders and reconstitute the Board of Directors with the following persons as the Directors of the said Corporation for a period of one year with immediate effect.

- Official Members:
1. Sh.D.C. Sankhla
Chairman, DTDC Chairman.
 2. Sh.I.A.Khan,
Secretary(Finance), Ex-officio Director.
Delhi Admn.
 3. Sh.S.K.Sheriff -do-
Director of Transport,
Delhi Admn.
 4. Sh.P.K.Tripathi, -do-
Commissioner of Excise,
Delhi Admn.
 5. Mrs.Hir Chandran, -do-
Regional Director,
Deptt. of Tourism.

6. Sh.G.S.Chima, Managing Director.
Managing Director,
Delhi Tourism Develop-
ment Corporation.

7. Sh.Lalit Man Singh, Director.
Secy. Indian Council
for Cultural Relations.

8. Sh.M.D.Khare, Director.
Director (Monuments)
Archaeological
Survey of India.

Non-Official Members:-

9. Sh.Subhash Chopra, Director.
Member, Metropolitan
Council, Delhi.

10. Sh.R.N.Chandeliya, Director.
Member, Metropolitan
Council, Delhi.

11. Sh.Ram Pershad, Director.
President,
Hotel & Restaurant
Association of
Northern India

This Administration's earlier notification No.F.48(7)/
81/TSM/Tpt. dated 17th April 1984 shall cease to have
effect immediately on the date of issue of this Notification.

By order and in the name of
the Administrator of the
Union Territory of Delhi.

Sd/- (G.K.MARWAH)
DY. SECY. TOURISM.

No.F.1(38)/TSM/Tpt./7824-42 Dated 28.7.86.
Copy forwarded to:-

1. Chairman, DTDC, N-Block, Connaught Place, New Delhi.....'

This appointment itself is preceded by an earlier
order No.F.8/1/86-SI-VOL.II dated 14.5.1986. By that
order the Administrator Delhi was pleased to order transfer
and posting of two IAS officers including the applicant.
The applicant who was then holding the post of Labour
Commissioner was transferred and posted as Chairman, Delhi
Tourism Development Corporation. It was clearly mentioned
in paragraph 3 of that order that "the terms and conditions
of appointment of Shri D.C.Sankhla (the applicant) will be
settled in due course". Those terms and conditions were
subsequently communicated by the Cadre Controlling Authority,
Ministry of Home Affairs, New Delhi - vide letter

No.U-14023/20/86 UTS dated 4.9.1986 in which the period of applicant's deputation is specified as "from 21.5.1986 (AN) until further orders". The learned counsel for the applicant contends that his appointment as Chairman,DTDC is for the period of one year as mentioned in the order extracted above. This content)on ignores the clear and unambiguous words that it is only "until further orders". That order is also in consonance with the initial order dated 14.5.1986 as also the subsequent order dated 4.9.1986 of the Cadre Controlling Authority. The Notification dated 28.7.1986 specifically makes a distinction between the term of appointment of the Chairman and the Managing Director on one hand and that of the Directors on the other. While the appointment of the applicant as Chairman and that of Shri G.S.Chima, Managing Director on the Board of Directors of the Corporation is "until further orders", the appointment of other persons as Directors of the Corporation is "for a period of one year". That is how the Board is reconstituted with immediate effect. Merely because the other Directors have been given a specific term of one year, it does not follow that the Chairman and the Managing Director also have been appointed to the Board of Directors for a specific period of one year. Any such reading of the order would be violating the express words governing their appointment viz. "until further orders". Shri K.L.Sharma, learned counsel for the applicant further contends that the entire Board is reconstituted for a period of one year. We are unable to agree that thereby the term of the Chairman and the Managing Director also was fixed as one year. Even while reconstituting the Board, the order

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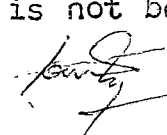
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directs that so far as the Chairman and Managing Director are concerned, on that reconstituted Board, they will continue as the nominees of the Lt. Governor "until further orders". It was, however, contended that since the Chairman and Managing Director are also Directors, they should be deemed to have been appointed for a term of one year. Apart from the fact that any such interpretation would be contrary to the express terms of the Notification, it would be ignoring the specific articles of Association governing such appointments which make clear distinction in the appointment of the Chairman on the one hand and the Directors on the other. Article 45(b) governs the appointment of Chairman which reads as under:-

"The Chairman of the Company shall be appointed by the Lt. Governor on such terms and conditions (emphasis supplied) and on such remuneration as determined by the Lt. Governor and as permissible under the Act and Guidelines issued by the Bureau of Public Enterprises, Ministry of Finance, Government of India".

The appointment of the Directors is not governed by Article 45(b). The terms and conditions subject to which the Applicant was posted as Chairman, DTDC clearly state that his appointment is "until further orders". It is, therefore, futile to contend that unless one year elapses, his appointment as Chairman cannot be terminated.

It was next contended that the order is arbitrary and casts a stigma. The order itself is innocuous. Undoubtedly the applicant seems to be doing very good work and seems to have saved the Corporation ^awithin/short time after he assumed charge from the very heavy losses it was suffering. That only shows that he is not being

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transferred by way of punishment. Admittedly, no adverse proceedings have been recorded against him. In fact the File No.8(1)/86-SI (Vol.II) regarding posting and transfer of IAS Officers which was placed before us by the learned counsel for the respondents discloses that this post used to be always manned by an officer in the super time scale. It was expected that the applicant would be getting his super time scale this year. But now it transpires that he would not be getting the super time scale for some time. It was, therefore, suggested that respondent No.4 who is in the super time scale be posted as Chairman-cum-Managing Director, DTDC. That does not cast any aspersion or stigma on the applicant. May be, as contended by the applicant the post to which he is now transferred also is a post always manned by an officer in the super time scale. But it is not disputed that the post of Chairman, DTDC was always held by an officer in the super time scale. If having regard to this fact the Administrator thought it fit that at least this post be manned by an officer in the super time scale and such an officer i.e. respondent No.4 was available, there is no basis for holding that it was by way of punishment or that it casts a stigma.

The applicant has made some allegations of mala fides but he has not named the person who was actuated by malafides. Nor has he impleaded that person by name. We, therefore, do not think that it would be justified in taking note of these allegations and going into them.

The learned counsel for the applicant relied upon the Government policy for the Management of Public Enterprises as recorded in Vol.I General Management and Financial

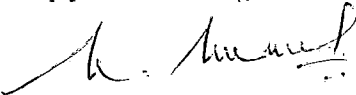
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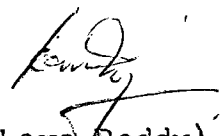
Management Published by Standing Conference of Public Enterprises in association with Bureau of Public Enterprises which states that:

"in the interest of efficient working of Public Enterprises such appointments should be in the nature of contract appointments for a minimum period of 4 years which could be extended to 6 years; the appointing authority having the right to terminate the appointment after the first year....."

This speaks of the initial order of appointment. But as already noticed, the initial order of appointment does not specify that the applicant's term would be for a minimum period of four years. May be, ~~1986~~ some error was committed in not appointing the applicant for a specific period of at least four years. But in the face of the order of appointment dated 28.7.1986 in which his tenure was stated to be only "until further orders", the applicant does not have a legal right to insist upon his continuance even for the period of one year. The passage relied upon by the Applicant's ^{counsel} does not govern the situation with which we are presently concerned where no specific period either of one year or four years was given to the Chairman when he was initially appointed.

For the foregoing reasons, we find no merit in this application; it is accordingly dismissed.


(Kaushal Kumar)
Member
24.10.1986.


(K. Madhava Reddy)
Chairman
24.10.1986.