

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: DELHI.

....

O.A. No. 41/87.

Shri Narain Singh

... Applicant

Vs.

The Lt. Governor, Delhi & Ors.

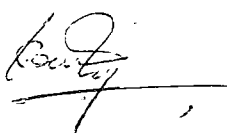
... Respondents.

13.1.1987

Applicant through Shri G.R. Matta.

The applicant, who belongs to the Social Welfare Department of the Delhi Administration and was working as Deputy Superintendent, Social Welfare, in the pay-scale of Rs. 550-900, was alongwith several other persons from various Departments, deputed to the Central Jail, Tihar, Delhi, in the pay-scale of Rs. 650-1200. That appointment was made on a "purely ad-hoc and emergent basis". By order dated 22nd November, 1986, the Inspector-General, Prisons relieved the applicant of his duties and directed him to report to the Services Department for his further posting. On reporting to the Services Department, he was advised to report for duty to the Director, Social Welfare, Delhi Administration. On repatriation from the Central Jail, Tihar, Delhi, by order dated 31st December, 1986, the applicant was posted to the Poor House in the scale of Rs. 550-900 (revised Rs. 1640-2900) with effect from 22.11.1986, i.e. the date on which he was directed to be relieved by the Inspector-General, Prisons. The applicant complains that this order relieving him from the post of Deputy Superintendent, District Jail is by way of punishment and as it was made without following the procedure prescribed by law, it is illegal, arbitrary and must be quashed.

2. The applicant, admittedly, belongs to the Social Welfare Department and was in the pay-scale of Rs. 550-900. He was, so to say, on deputation to the District Jail and was posted as Deputy Superintendent, Grade I, in the said Jail. He was merely repatriated to his parent Department and on repatriation was posted



against a post carrying a pay scale of Rs. 550-900. He does not suffer any detriment that way. The benefit which he had secured by virtue of his deputation to the District Jail as Deputy Superintendent Grade I, he could not claim as of right in his parent department. No deputationist can claim to be continued as of right on deputation and refuse to be repatriated to the parent department.

3. No doubt, he was posted as Deputy Superintendent, Grade I, Central Jail, Delhi, by an order dated 25th July, 1986; but as already noticed above, that was on purely ad hoc and emergent basis. The period of deputation was for six months or till the posts are filled on regular basis, whichever was earlier. No doubt, the period of six months has not expired. But the order itself clearly states that the appointment was purely on ad hoc and emergent basis and would not confer on them any right for seniority or for regular appointment to the post or to any other equivalent post.

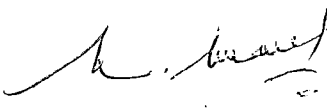
4. Reliance was placed upon the judgment of the Supreme Court in State of U.P. v. Sughar Singh, AIR 1974 SC 423. That is a case where promotions were made on officiating basis and reversions of seniors were ordered while retaining the juniors. Reversion from the officiating post to the substantive post in the circumstances of that case was held to constitute reduction in rank and the order violative of Article 311. That was not a case of repatriation of an officer to his parent department. That judgment cannot of any assistance to the applicant.

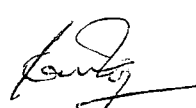
5. The applicant also relied upon another judgment of the Supreme Court in Jarnail Singh & Ors. v. State of Punjab, 1986(2) SLR 278 in which the Supreme Court held that where an order terminating the services of ad hoc employee simpliciter (innocuous) is challenged was penal and it was grounded on misconduct, it is incumbent upon the court to lift the veil and see the real circumstances as well as the basis and foundation of the order. This case, too, is of no avail

to the applicant, for it dealt with an order of termination of services of an ad hoc employee. The applicant's services have not been terminated; he has only been repatriated to the parent department which could never be termed as punishment. It is an innocuous order which casts no stigma.

6. The applicant next contended that the impugned orders have been made by an authority lower in rank than the appointing authority. No doubt, the order dated 25th July, 1986 appointing the applicant as Deputy Superintendent, Central Jail, Grade I, Delhi, was made by the Administrator and the applicant was relieved from that post by the Inspector-General, Prisons. But the Inspector-General merely directed the applicant to report to the Secretary (Services) Delhi Administration. It was the Secretary (Services), Delhi Administration that relieved the applicant and not the Inspector-General, Prisons. Even otherwise, this contention does not merit acceptance because as already held above by us, the repatriation to the parent department does not constitute imposition of any penalty by way of disciplinary action. Hence, no question of the applicant being relieved by an authority lower in rank than the appointing authority vitiating the order arises.

7. For the aforesaid reasons, we find no merit in this Application and accordingly dismiss the same.


(Kaushal Kumar)
Member
13.1.1987.


(K. Madhava Reddy)
Chairman
13.1.1987.