

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 165/89
CCP ~~XXXXXX~~ No. 129/89
M.P. No. 2127/90

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DATE OF DECISION 5.4.1991.

Shri Ram Saran	Petitioner
Shri K.L. Bhatia	Advocate for the Petitioner(s)
Versus	
Union of India & Another	Respondent
Shri M.L. Verma	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? */*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The grievance of the applicant, who has filed this application under Section 19 of the Administrative Tribunals Act, 1985, relates to his transfer from the Workshop to the Distribution Wing in the Delhi Milk Scheme, where he is employed as a Mate. He has been working in the D.M.S. since 1969. Till 1983, he had been employed in the Distribution Wing. At that time, some vacancies of Mates arose in the Transport Workshop. The applicant was selected and posted there by order dated 18.2.1983. He

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worked in the Workshop for about six years as a semi-skilled Mechanic. If he continues to work there, he has the prospect of being promoted to the next higher post of semi-skilled Fitter and similar skilled jobs. He was, however, posted out of the Workshop to the Distribution Wing on 10.1.1989. He has challenged this posting in the present application.

2. The respondents have stated in their counter-affidavit that the impugned order dated 10.1.1989 is no more in force and that it has been superseded by order dated 11.1.1989. The applicant has again been put back in the Transport Workshop. What had happened was that as a temporary measure and in order to meet the shortage of staff on milk distribution routes, the applicant had to be shifted to the Distribution Wing. They have also categorically stated that by virtue of his continuity in the Workshop, he is entitled to all the privileges and rights available to the staff in the Workshop.

3. We have carefully gone through the records of the case and have considered the rival contentions. It is for the respondents to utilise the services of their employees in the best manner possible, keeping

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in view the exigencies of service. That being so, the entrustment of work in the Distribution Wing to a Mate who is otherwise borne on the Workshop side to tide over a crisis in the distribution of milk, cannot be called in question. In view of the categorical statement made by the respondents that the applicant continues to be in the Workshop and that he would be entitled to all the privileges and rights available to the employees of the Workshop, we do not consider it appropriate to issue any directions to the respondents on this application. The application is disposed of accordingly.

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4. This petition has been filed by the applicant alleging that the respondents deliberately disobeyed the directions contained in the interim order passed by the Tribunal on 25.1.1989, when the main application was admitted. The Tribunal had observed that the status quo as on that date, shall be maintained.

5. On 7.2.1989, the respondents produced a copy of their order dated 11.1.1989, whereby the applicant had been reposted in the Workshop of the Transport Wing w.e.f. that date. In the C.C.P., it has been stated

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that the applicant has been transferred from the Workshop to the Distribution Cell on 3.6.1989 in violation of the stay order passed by the Tribunal. The respondents have stated in their reply to the C.C.P. that from 3.6.1989 to 18.8.1989, the applicant was temporarily deployed on distribution duty to meet the shortage of staff and that he has been reposted to the Transport Workshop thereafter.

6. In our opinion, the respondents cannot be said to have deliberately disobeyed the stay order passed by the Tribunal. We, however, dispose of the C.C.P. and discharge the notice of contempt with the direction to the respondents that during the period from 3.6.89 to 18.8.1989, when the applicant was put on duty in the Distribution Cell, he should be paid the same pay and allowances which he would have drawn had he been working in the Transport Workshop.

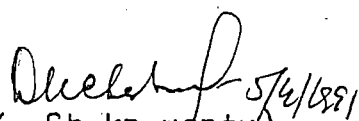
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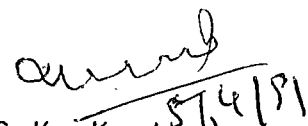
7. The applicant has filed this miscellaneous petition praying that the respondents be directed to pay to him his salary for the months of July, August and September, 1989 and also allow him to work peacefully on his job in the Workshop. The learned counsel

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for the respondents stated that the applicant is
now working in the Workshop, and that ^{the} mode of regulation of ~~the~~ ^{the} period
during which he remained absent from duty, will
be decided on receipt of leave applications from
him duly recommended by his Branch Officer. After
hearing the learned counsel for both the parties,
we direct that the period of absence of the applicant
from duty, shall be regulated by the grant of any kind
of leave due to him under the relevant rules. We also
make it clear that the said period shall not be
treated as unauthorised absence. The MP-2127/90 is
disposed of on the above lines.

There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)