

CAT/7/12
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1278/90
T.A. No.

199

DATE OF DECISION

18.8.93

<u>Shri Arun Kumar Nigam</u>	<u>Petitioner</u>
<u>Shri B.S. Vharya</u>	<u>Advocate for the Petitioner(s)</u>
<u>Versus</u>	
<u>Union of India.</u>	<u>Respondent</u>
<u>Mrs. Veena Kalra.</u>	<u>Advocate for the Respondent(s)</u>

CORAM

The Hon'ble Mr. J.P. Sharma, Member (J)

The Hon'ble Mr. S. Gurusankaran, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
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 ?

JUDGEMENT

(Hon'ble Shri J.P. Sharma, Member (J)).

We have heard the learned counsels of the parties.

The applicant is a Member of the Central Industrial Security Force (CISF) which is an armed force of the Union in terms of sub section (1) of section 3 of CISF Act, 1968 as amended from time to time. Under section 2(a) of the Central Administrative Tribunals Act, 1985 the judicial review by the Tribunal is not extended to the members of the armed forces of the Union of India. It is not disputed by the learned counsel that the applicant belonged to CISF. However, the applicant came on deputation to Delhi Police and joined the office of the Foreigners Regional Registration Office (FRRD) w.e.f. 7-2-1986. The applicant was suspended by the order dated 8-6-87 pending enquiry against him. He was served with a summary of allegations dated 18-1-88.

Shri Harbans Lal, Assistant Commissioner of Police was appointed as Enquiry Officer. The applicant in the evidence before the Enquiry Officer made a representation on 9-9-88 for repatriation to his parent department, CISF. The charge was framed against the applicant on 21-10-88. The applicant also examined one witness Shri Dinesh Kumar in defence on 24-10-88. The order of suspension was revoked by the order dated 6-4-89 and the applicant joined the duty w.e.f. 7-4-89 and posted at FRRO Lines Safdarjang New Delhi. By the order dated 13-4-89 the applicant was repatriated to his parent department, CISF, New Delhi. In pursuance of the notification of the Commissioner of Police dated 28-3-89 the applicant joined with the Director General, CISF on 17-4-89 and he was posted at CISF Unit ONGC Nazia (Assam). On 28-7-89 Comdt. CISF Unit ONGC Nazia passed an order for removal from service on the basis of earlier enquiry.

In this application, under section 19, the applicant has prayed that the grant of reliefs in that the suspension order dated 8-6-87 passed by FRRO New Delhi be declared illegal and invalid, so also the proceedings of the enquiry initiated against him. He has also prayed for full allowances and salary for the entire period and also challenged the order of removal from service dated 28-7-89 passed by the Commdt. CISF Unit Nazia.

The applicant has also filed writ petition in Delhi High Court after the filing of this application under article 226 of the Constitution of India on 17-9-90 while the original application was filed in the Tribunal on 7-6-90.

During the course of the arguments the learned counsel for the applicant argued that he has filed a writ petition in the High Court assailing the order of removal from service by the Commdt. CISF dated 28-7-89. The contention of the learned counsel is that the order of suspension could not be passed while he was on deputation at FRRO New Delhi. His contention is that so far as the order of suspension

is concerned the application is maintainable as the applicant was on deputation in Delhi Police at that time. In fact, after the passing of the orders of suspension the applicant was reinstated as said above by the order dated 6-4-89. Thus for all purposes, the challenge remains to order for removal from service passed by the Commndt. CISF. Both the orders cannot be separate. The matter may have been different that the applicant has assailed the order of suspension dated 8-6-87 at the time when the applicant was on deputation to Delhi Police. For all purposes the applicant has been repatriated to his parent department and the remedy does not lie in the Tribunal. It would be ultimate decision of the writ petition filed by the applicant in the Delhi High Court in September, 1990, which will decide the validity of enquiry proceedings and other orders passed while the applicant was on deputation. The objection of the respondents therefore prevail. The Tribunal has, therefore, no jurisdiction in the matter. The O.A. is, therefore, dismissed as not maintainable bearing the parties their own costs.

Manoharan
18/8/91
(S.Gurusankaran)
Member (A)

J.P.Sharma
(J.P.SHARMA)
Member (J)