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CENTRAL ADMINISTRATIVE TRIBUNAL

Principal Bench
New Delhi.

OA-152/90

New Delhi, this the 27th day of July, 1994.

Hon'ble Mr Justice S.K.Dhaon, Acting Chairman.
Hon'ble Mr B.N.Dhoundiyal, Member(A).

Shri H.S.Kohli, SAI,
G-82, Sarojini Nagar,
New Delhi.

.. .. Applicant.

(none appeared)

vs

1. Union of India
Through the Secretary,
Ministry of Defence,
New Delhi.
2. The Chief Engineer,
Western Command,
MES, Chandimandir.
3. The Chief Engineer,
Delhi Zone,
Delhi Cantt.
4. The Garrison Engineer(R&D),
Lucknow Road,
Delhi.
5. The Engineer-in-Chief,
Army Headquarters,
Kashmir House,
Rajaji Marg,
New Delhi.
6. Commander,
Works Engineers,
Bhatinda.

.. .. Respondents.

(through Mr V.S.R.Krishna, Advocate).

ORDER

JUSTICE S.K.DHAON, ACTG. CHAIRMAN (ORAL)

The applicant has once again come to this Tribunal claiming the same relief, which he had claimed earlier. The relief claimed is that the order of movement given to him on 19.6.1989 may be quashed. Some other reliefs have also been claimed. The reliefs relates to payment of monthly salary, grant of increment etc.

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2. The other relief claimed is that the respondents may be directed not to take any action against the applicant in having not carried out the order of movement dated 19.6.1989.

3. A counter-affidavit has been filed on behalf of the respondents. Therein, the material averments are these. The applicant came to this Tribunal by means of O.A.No.1439/89 decided on 4.8.1989 and this Tribunal passed the following order:

"I, therefore, hold that the respondents have a right to transfer the applicant in public interest and that there is no need for the court to interfere in this matter. However, since the Chief Engineer-Respondent No.2 has already agreed to let the applicant continue in Delhi till 31.8.89 and according to the revised orders, he has been allowed to remain in Delhi on the strength of Bhatinda, the intention appears to be let the applicant remain in Delhi till the end of August. As such, it is directed that he may not be moved out before August 31, 1989, It would be also unfair to deny him the financial benefits. It is therefore, directed that while the transfer order of the applicant to Bhatinda should stand, the headquarters be kept at Delhi till 31.8.89 in the office of CE, RCP, New Delhi, and he must report there immediately. He would be entitled to retain his house at Delhi and get HRA etc., as if his headquarters are at Delhi till 31.8.89. The respondents may also disburse the salary of the applicant for the month of July, 1989, immediately. His salary for the month of August should also be paid to him on time. The Application is disposed of accordingly. There will be no order as to costs. "

4. The main contention, which appears to have been raised in this O.A. is that after the judgment in O.A.No.1439/89 on 4.8.1989, the movement order dated 19.6.1989 became un-workable and it required to be amended. We are unable to understand this line of reasoning. This Tribunal

kept the order of movement intact and it became effective with full vigour immediately after the decision in O.A.No.1439/89, even if its operation had been stayed during the pendency of the O.A.

5. The application is also barred by the principles of res-judicata, as the legality of the movement order dated 19.6.1989 has already been adjudicated upon in O.A.No.1439/89.

6. With regard to the other reliefs claimed, barring the relief that the respondents may be directed not to take any disciplinary action against the petitioner, Shri V.Krishna points out that the petitioner has been paid and will be paid all his dues, which are legally admissible. To this effect, necessary averments have been made in paragraph 9 of the Counter. We cannot restrain the respondents from taking disciplinary action against the applicant, if the same is called for. However, we have no doubt that if such an action is taken, the respondents will act strictly in accordance with law.

7. This case was taken up in the revised list. None appeared in support of this application.

8. In the result, the application is dismissed but without any order as to costs.

/sds/

(B.N.Dhondiyal)
Member(A)

(S.K.Dhaon)
Actg. Chairman.