

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1881/90  
T.A. No.

199

DATE OF DECISION 17.12.1990.

Shri S.K. Jain

~~Petitioner~~ Applicant

Shri T.C. Agarwal

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Union of India through Dir.Gen.

Respondent

D.A.V.P.

Smt. Raj Kumari Chopra,

Advocate for the Respondent(s)

### CORAM

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? *No*
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 applicant, who belongs to the Accounts Service of the Directorate of Advertising & Visual Publicity, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned order dated 7.9.1990 and for a direction to the respondents to treat him as having joined as Accounts Officer at New Delhi on 5th March, 1990 with all consequential benefits.

2. The application was filed in the Tribunal on 11.9.1990. On 17.9.1990, the Tribunal passed an interim order to the effect that the respondents are directed to

post the applicant at the New Delhi office as an Accounts Officer, if any vacancy exists. The interim order has been continued thereafter until the case was finally heard on 22.11.1990.

3. The facts of the case in brief are that the applicant was promoted from the post of Accountant to the post of Accounts Officer on ad hoc basis and posted at Guwahati w.e.f. 27.2.1987. On 21.12.1989, the respondents issued an order transferring him from Guwahati to New Delhi as Accounts Officer. He was relieved of his duties at Guwahati on 26.2.1990 with instructions that he should report himself for duty in the same capacity at New Delhi. Accordingly, he reported for duty at New Delhi on 5.3.1990, but was not allowed to join and was directed to proceed on leave.

4. The version of the respondents in the counter-affidavit filed by them is that they had sent a telegram to Guwahati to relieve the applicant only if he was prepared to come to Delhi in reversion as Accountant. They have produced a copy of the telegram dated 1.3.90 at Annexure R-1 to the counter-affidavit, p.43 of the paper-book. The applicant, however, got himself relieved and reached Delhi. There had been some representations regarding the seniority which was being sorted out with the Department of Personnel & Training. Pending a

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decision on the recommendations, the applicant was advised that either he should go back to Guwahati in the same post or be on a short tour to Delhi, or else, he would be reverted since there was a senior person available at Delhi to fill up the vacancy of Accounts Officer at New Delhi. The respondents have stated that the applicant preferred to proceed on leave on his own.

5. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. Smt. Raj Kumari Chopra, learned counsel for the respondents, stated that the application has become infructuous as the applicant has been assigned his due seniority by virtue of which he would be eligible for appointment as Accounts Officer. Therefore, the basic relief sought in the application has already been granted to him. The leave period of the applicant from 14.3.1990 to 18.9.1990 should be left to be regulated as per the rules.

6. Shri T.C. Agarwal, learned counsel for the applicant, submitted that for the aforesaid period the applicant was prevented from working as Accounts Officer and that he should be treated as on duty during the said period. From 18.9.1990, the applicant has been continuing in the post of Accounts Officer by virtue of the interim order passed by the Tribunal.

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7. The applicant has not controverted the version of the respondents that pending a decision on the representations regarding the seniority, he might either go back to Guwahati in the post of Accounts Officer or be on a short tour to Delhi, or else, he would be reverted to the post of Accountant.

8. Now that the seniority of the applicant has been given to him, as submitted by the learned counsel for the respondents, and that he has been appointed to the post of Accounts Officer at Delhi, the only remaining issue arising for consideration is as to how the period from 14.3.1990 to 18.9.1990 should be regulated. In the facts and circumstances of the case, the applicant may, ~~apply~~ within a period of one month from the date of receipt of this order, <sup>apply</sup> for leave of any kind due for the period from 14.3.1990 to 18.9.1990. The respondents shall consider any such application submitted by him in accordance with the relevant rules and pass appropriate orders within a period of one month after the receipt of the application from the applicant.

9. The application is disposed of on the above lines. There will be no order as to costs.

*D.K. Chakravorty*  
(D.K. Chakravorty)  
Administrative Member  
10/12/1990

*P.K. Kartha*  
(P.K. Kartha)  
Vice-Chairman (Judl.)  
10/12/90