

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2715/90 199
T.A. No.

DATE OF DECISION 29.1.1991

Shri Prem Kumar Hans ~~xPetitionerx~~ Applicant
Shri Vijay Kumar Mehta, Advocate for the ~~Retitioner(s)~~ Applicant
Versus
Union of India through Secretary, Respondents
Ministry of External Affairs & ors.
Mrs. Raj Kumari Chopra, Advocate for the Respondent(s)

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The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K.CHAKRAVORTY, MEMBER(A)

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

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

The applicant in this application had filed OA 1804/90 which was disposed of along with two other applications(OA 1805/90 and OA 1814/90) by a common judgement dated 5.10.90. He had challenged the validity of the Memorandum dated 21.8.90 issued by the High Commission of India in London, whereby his deputation to the High Commission had been sought to be terminated with effect from 30.9.90. He was working in the High Commission as Attached(Coordination). The Government of India have decided to wind up the supply wing of the High Commission of India in London and to abolish the existing posts (both India-based and Local) in a phased manner by the end of September, 1990 and December, 1990. Referring to the said decision, the impugned memorandum dated 21.8.1990

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states that it has been decided to relieve the present incumbents of the posts as listed in Annexures 'A' and 'B' to the memorandum. The name of the applicant figures in Annexure-A, dealing with the list of persons who should relinquish charge on 30.9.1990. Annexure-B is the list of persons who should relinquish charge on 31.12.1990.

2. There are, altogether, 14 India-based persons who are to be repatriated to India on premature termination of their deputation.

3. The applicant has contended that he accepted the offer of appointment on deputation in the belief that the period of deputation would be three years and that it would not be abridged. According to him, any abrupt curtailment of the tenure of three years, would be unjust and unfair and also in contravention of the terms and conditions of appointment. He has also mentioned the personal difficulties, such as the medical treatment undergone by his son and wife in London, the financial hardships caused to him as he had to sell off his household effects at throw-away prices before he left for London, and that it would be impossible for him to recoup the losses if he is transferred prematurely. His wife, who was working in the Indian Newspaper Society, New Delhi, since 1978, had to resign her job on his posting to London. Had he known that the period of deputation was subject to curtailment, she would not have resigned her job. He has alleged that the premature termination of deputation would cause disruption of the education of his child. He has referred to the precedents existing in the High Commission where persons were allowed to complete their tenure even though their posts

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had been declared surplus. He has requested that he may be adjusted in the High Commission in any other post in any Wing.

4. The Tribunal observed that the decision of the Government to abolish certain posts in the High Commission of India in London and to wind up the Supply Wing, is with a view to effecting economy and in public interest. All the posts manned by India-based personnel in the Supply Wing, have been sought to be abolished. In view of this, it was observed that the impugned memorandum dated 21.8.1990, cannot be said to be arbitrary, illegal or unconstitutional.

5. A person who has been appointed on deputation basis, can be reverted to his parent cadre at any time (vide Rati Lal B. Soni & others Vs. State of Gujarat & others, 1990(1) SCALE, 228; see also R.M. Misra Vs. Delhi Admn, 1985(1) SLR 753; and Shambu Nath Lal Srivastava Vs. the State of U.P., 1984(2) SLJ 34).

6. The applicant has not alleged any mala fides or ulterior motives on the part of the respondents while issuing the impugned memorandum dated 21.8.1990. It is for the respondents to consider the difficulties and hardships that may be caused to the applicant by the premature repatriation to India. These are matters on which it will not be appropriate for the Tribunal to interfere on the ground that matters of good administration are for the Government and not for the Court to decide.

7. In the operative part of the judgement, the Tribunal observed as under:-

" While we uphold the validity of the decision of the Government, pursuant to which the impugned memorandum dated 21.8.1990 was issued, we order and direct that the applicants shall be

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given time to wind up their affairs at London atleast upto 31.12.1990, and that the impugned order shall not be enforced against the applicants till 31.12.1990. "

8. Those applications were disposed of at the admission stage itself on the above lines.

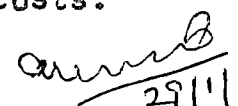
9. On 21.11.1990, the respondents passed the following memorandum whereby the applicant will work in the Supply wing, London only till 31.12.1990:-

" Coordination Cell in the Supply Wing, stands abolished but Attache (Coordination) Shri P.K.Hans will continue to handle this work in the Residual Unit of the Supply Wing till 31.12.90 and thereafter he proceeds on transfer to Headquarters."

10. After carefully going through the records of the case, including the written submissions filed on behalf of the applicant on 24.1.1991 and hearing the learned counsel of both parties, we are of the view that the present application is not maintainable, as it does not disclose any new cause of action. The Tribunal has already considered the same grievance of the applicant in OA 1804/90 after account and taking into all the aspects delivered judgement dated 5.10.1990. In the facts and circumstances, the application is dismissed at the admission stage itself as being not maintainable in law.

There will be no order as to costs.


(D.K.CHAKRAVORTY)
MEMBER 29/1/91


29/1/91
(P.K.KARTHA)
VICE CHAIRMAN