

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

O.A. NO. 1279/1991

DATE OF DECISION

24.12.91

SHRI G.M. KHANNA

...APPLICANT

VS.

DIRECTOR, INDIAN INSTITUTE
OF PETROLEUM, DEHRADUN

...RESPONDENT

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...IN PERSON

FOR THE RESPONDENT

...SHRI A.K. SIKRI

1. Whether Reporters of local papers may be
allowed to see the Judgement?

2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant has come under Section 19 of the
Administrative Tribunals Act, 1985 against the order
dt. 17.11.1988 passed in OA 1412/1988 by the Principal
Bench. In fact, by the aforesaid order, the
Principal Bench had ordered for fresh enquiry
against the applicant. That enquiry was officially

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closed on 22.2.1991 in spite of the fact that there is no departmental proceeding against the applicant, as the only enquiry which was held against him stood closed by the order dt. 22.2.1991, so the applicant was entitled to restoration of his legitimate duties as per his status. The applicant claimed the following reliefs :-

1. The respondent be directed by writ or direction in nature of mandamus commanding the respondent to restore back the legitimate duties of the petitioner as the same cannot be held back by the respondent on his sweet will in the absence of any charge, as per the service conditions.
2. The Tribunal be further pleased to direct prohibiting the respondent, its officers and employees to stop all further harassment to the petitioner.
3. The cost of the application may be also awarded in favour of the applicant against respondent.
4. The Tribunal be further pleased to direct prohibiting the respondent, its officers and employees to stop all hindrance in the promotion of the petitioner.
5. The applicant may be suitably awarded some monetary

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benefits from the respondent in lieu of mental agony and monetary losses he had to undergo on a fictitious and flimsy enquiry for which the petitioner has to approach the Hon'ble Court once again and the respondent had no papers even to issue charge-sheet what to talk of a full-fledged enquiry as is clear from the report of the Inquiry Officer of 19 IX.1990.

2. The applicant also moved an MP No.2537/1991 on 29.8.1991 in which he has prayed that the respondents be restrained from threatening the applicant and using pressure tactics and coercion against the applicant. The facts of the case are that the applicant is working as Photographic Officer in 'C' grade in Indian Institute of Petroleum at Dehradun. The said institute is a creation of Council of Scientific and Industrial Research (CSIR),^a Society created by the Government of India. The applicant is working as Technical Officer since 1963. However, in 1986, the official work was denied to the applicant for which the applicant filed OA 1412/1988 on 17.11.1988. The Tribunal in that OA ordered that the applicant be given back his duties as per his status unless an enquiry is actually held on some specific charges against him. The applicant was ultimately served with a chargesheet on 6.2.1989.

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However, the said enquiry was closed down on 21.2.1991.

The petitioner requested the respondents to restore back his duties, but the respondents have not so far done so.

The applicant averred that he is suffering mental torture apprehending future loss of career if he is not restored back his legitimate duties as a consequence of this non restoration of his duties.

3. The respondents in their reply stated that Indian Institute of Petroleum is not covered under jurisdiction of the Tribunal as there is no notification covering Indian Institute of Petroleum under Section 14 (2) of the Administrative Tribunals Act, 1985. Further it is stated that the applicant has challenged the order of the Tribunal dt. 17.11.1988 passed in OA 1412/88 and that is not permissible. Further this application has become infructuous in view of the order passed on 19.8.1991 (Annexure R-1 to the counter) where outdoor photography work was entrusted to the applicant and indoor photography work was given to two other staff members, S/Sh. G.N.Madhwal and Prem Singh. The applicant has no right to ask for the duties of his own choice. The applicant has never been harassed by the respondents regarding his future promotion, a promotion policy according to which the applicant will be assessed in his turn.

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The respondents have denied the fact that the applicant has been denied work equivalent to his post. The respondents have also stated that the applicant has not been maintaining absolute integrity and not complying with the various orders issued from time to time concerning his duties entrusted to him. The probation period of the applicant was extended twice and the applicant was also given some adverse entries for the period covering 3.11.1982.

4. We have heard the learned counsel at length.

However, the applicant subsequently filed a memo stating oral that since he has not completed his arguments, he submitted

detailed submissions in writing in support of his arguments. As regards the challenge to jurisdiction of the Tribunal, it is conceded in the counter filed by respondents that Indian Institute of Petroleum is part of C.S.I.R. which has been notified u/s 14(2) of the AT Act, 1985. This contention of the respondents, therefore, has no force.

5. The main grievance of the applicant is that the

Director has struck off the applicant from all the important duties and responsibilities for which the applicant was selected by the Selection Committee in view of his experience.

The order passed in OA 1412/88 goes to show that that

Original Application was disposed of on 17.11.88 at the

admission stage itself directing the respondents to look into the matter of the applicant and unless a decision is taken to institute a departmental enquiry in respect of the specific allegations against the applicant, to assign his

duties in keeping with his status. (EMPHASIS SUPPLIED)

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In the application No. 1412/88, the grievance harboured by the applicant was that he has been holding the post of Photography Officer, but he has not been assigned duties consistent with his status. Annexure R-1-A filed to the counter dt. 19.8.1991 goes to show that by this Office Memo, the distribution of entire photography work was done in a particular manner. The relevant order is quoted below :-

Out-door photography work

Shri C.M. Khanna will be Incharge of out-door photography work in P.R. unit of the Director's Technical Secretariat. This covers all meetings, visits, seminars, symposia, conferences, functions like Independence Day, Republic Day, National Science Day, CSIR & IIP Foundation Days, IIP Mela, Tournaments, Competitions, activities of IIP Club and Colony School etc.

Indoor photography work

The other two staff members S/Sh. G.N. Madhwal and Prem Singh will undertake all studio work, photography of scientific & experimental units, equipments and set-up slides etc."

There is an endorsement on the back of Annexure-1, a representation by the applicant dt. 2.6.1989 wherein it is written, "As per discussion held on 21.6.1989, I agree to do all outdoor photography work for the interim period only."

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This is signed by the applicant dt. 3.7.1989. The present Original Application has been filed by the applicant in May, 1989. The contention of the applicant is that he was carrying on the work of photography till 30.3.1986 as shown by him at p-76 of the paper book by drawing yes line above the printed matter which contains check list for evaluation of Photographic Department Service. This printed matter goes to show that ther is still photography, in-plant photography, field photography and other miscellaneous service. By the distribution of work dt. 19.8.1991, all other studio work, photography of scientific and experimental units, equipments and set up lights etc. was given to S/Shri G.N. Madhawal and Prem Singh and the outdoor photography work in P.R. Unit of the Directors (Technical) Secretariat was given to the applicant. The applicant wants that he should be given the same work which he was doing earlier to 30.3.1986. Basis for the allotment of such a work has been that the applicant was particularly selected for a particular job. By the order dt. 20.4.1987, an Enquiry Officer was appointed to enquire into the charges framed against the applicant. In the present application in para-7 (a), the applicant only stated that officer's work was denied to him, but he has not stated specifically as to what were the duties assigned to

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him as per his appointment in IIP and for what purpose he was appointed. What the applicant wants is the restoration of the legitimate duties as per his status and by this naturally he means that he should not be ignored in the allotment of work and the juniors to him in the service should not be allowed to have a march over him by giving better performance in other fields of photography. It is a fact that the applicant is making representations after representations, but at the same time, the probation period of the applicant was extended twice and he has also been given an adverse report for the period upto November, 1982. The learned counsel for the respondents placed reliance on the case of Tribhuvan Pandey vs. UOI, reported in AIR 1953 Nagpur 138 wherein it has been held that posting of an officer is a matter entirely in the discretion of the Government and the exercise of this discretion is not justiciable. The learned counsel for the respondents has also relied on the case of G.K. Tandon Vs. Judicial Commissioner, State of Ajmer, reported in AIR 1957 Rajasthan 230 where it is said that the recording of an adverse entry in the character roll of a Government servant is not protected under Article 311 of the Constitution and, therefore, it need not be considered in the proceedings under Article 226 whether there was justification for the entry or whether intimation

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of the entry was required to be given to the petitioner or what has been done in the matter. In fact, it is upto the employer to take up work of the same nature from an employee for which he has been appointed. If the applicant has been given outdoor photography work in preference to the juniors, then the applicant should not have any grudge on this account alone. The applicant could not suffer in any way in his promotional prospects because the promotion is always based on a promotional policy laid down by the institution. The apprehension harboured by the applicant is that indoor photography work is more vulnerable and may add to his better qualification, but in that event the applicant should not entertain any grievance. It is for the respondents to see who is the person best suited to do a work. Though there are various averments in the counter of the respondents regarding the inefficiency of the applicant, even the allegation of extension of the probation period, but the applicant has not filed any rejoinder to the counter filed by the respondents and so did not controvert them. But that is not material in this case nor it is necessary to discuss those averments as established or not against the applicant. It shall also not be in the interest of the applicant himself to draw this

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extenuous matter as the present application is only restricted to a grievance raised by the applicant of not being posted to a post of ^{appropriate} status. The respondents in their order of August, 1991 made it absolutely clear that the distribution of the work has been ^{done} among the existing staff of photographers in IIP. The applicant has only levelled certain aspersions against the Director, but none of such aspersions stands established by the documents filed by the applicant as annexures to the Original Application as well as Annexure to the detailed submissions. The annexures pertaining to the Original Application mostly cover the fact of an enquiry or alleged enquiry against the applicant after the decision of the OA 1412/88 by the order dt. 17.11.1988 and the annexures to these memos of submissions refer to the allotment of duties and distribution of work and certain printed matter showing by a sign, the particular work the applicant was doing before March, 1986. All these matters do not in any way go to show that the applicant has not been posted on a post of status. The applicant is drawing the same pay and salary and has been made solely Incharge of outdoor photography work. The respondents in their wisdom may again consider reallocating the work if the experience, ^{and aptitude} qualifications of the applicant warrant the

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doing of a particular work in a particular specific manner. Applicant can only apprise the respondents about his capabilities and ability to perform other work which has been entrusted to his juniors. The respondents, therefore, draw cannot conclusion that the applicant is not capable of doing the work assigned to other photographers in the institute and thus cannot mar the chances for consideration of their promotion.

6. The present Original Application, therefore, is dismissed as devoid of merits leaving the parties to bear their own costs. However, this order will not preclude the respondents to make any alteration or modification in the distribution of work among the existing photographers as per suitability of job and qualifications.

J. P. Sharma
(J. P. SHARMA) 24/12/49
MEMBER (J)

D. K. Chakravorty
(D. K. CHAKRAVORTY)
MEMBER (A) 24/12/49