

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1325/1991

(34)

New Delhi this the 25th Day of July 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri Dinesh Singh,
Son of Shri Shambhu Narain Singh,
Resident of H-39/B, Kunwar Singh Nagar,
Nilothi Morh,
Nangloi,
Delhi.

Petitioner

(Applicant in Person)

-Versus-

1. Union of India,
Through Secretary,
Ministry of Agriculture,
Government of India,
Krishi Bhawan,
New Delhi.
2. National Crime Records Bureau,
East Block 7, R.K. Puram,
New Delhi-110 066.
3. Indian Society of Agricultural Statistics,
C/o Indian Agricultural Statistics Research
Institute,
Library Avenue,
Pusa, New Delhi-110 012. Respondents

(By Advocate: Shri M.K.Gupta)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The applicant in this case was working with Respondent No. 3 as Senior Computer. Respondent No. 2 issued a circular on 4.4.1988 stating that Ministry of Home Affairs, National Crime Records Bureau proposes to prepare a panel of suitable officers for appointment to the post of Sub Inspector in the scale of Rs. 1320-2040 (Group 'C' non-gazetted) in their Computer and Systems Division on deputation/transfer basis. The said circular was circulated among all Ministries/Departments of the Central and State Governments and amongst all their subordinate

formations including the Universities/ Research

Institutions/Statutory or autonomous organizations as well. In response to this said circular, the petitioner applied for the post and the petitioner was selected for appointment to the post of Sub Inspector and initially the deputation/transfer kept for 3 years.

It was also stated that the period of deputation will be governed by the DOP&T order dated 29.4.1988.

Thereafter, the petitioner joined the office of Respondent No. 2 till 17.7.1990 wherein the respondents abruptly discontinued the services of the petitioner and was directed to place his services back at the disposal of his parent office viz., Respondent No. 3 with effect from the same date. The parent office by letter dated 9.8.1980 intimated the respondent No. 2 that the petitioner was sent to Respondent No. 2 through proper channel. Respondent No. 3 Society is a non official body and this fact had been informed prior to his appointment by the Respondent No. 2. It was also stated by respondent No. 3 that in response to their own letter dated 10.4.1989, the Respondent No. 3 had given willingness for the petitioner's posting in any of the State Capitals and it was in view of the said offer of appointment the petitioner resigned his post and was relieved to join Respondent No. 2.

2. The petitioner when approached the Respondent No. 3 with the impugned letter of repatriation, the Respondent No. 3 refused to accept him; after sending a representation to Respondent No. 2, the petitioner had approached this Court challenging the order dated

17.7.1990 stating that the appointment of the petitioner was on the basis of deputation/transfer and initially it was for three years. Accordingly, the petitioner had accepted the offer and the respondent No. 3 had relieved the petitioner enabling him to join Respondent No. 2. It was also stated on behalf of the petitioner that the impugned order by which the respondents are now seeking to repatriate the petitioner, because of the completion of three years is illegal since the services of the petitioner with Respondent No. 2 was to their satisfaction and nothing adverse has taken place and in the normal circumstances the petitioner would have continued in deputation till his appointment is made on the basis of transfer in accordance with the recruitment rules, unless the petitioner is found unfit in accordance with the rules of the Respondent No. 2. The case of the Respondent No. 2, on the other hand was, not that the petitioner was unfit nor did he complete the three years deputation initially but the grounds stated by the Respondent No. 2, for the issuance of the impugned order is, that the petitioner hails from a non-confirming office. According to the counsel for the respondents, Respondent No. 3 is a private society and the respondents could not under the rules take a person from a private office on deputation.

3. The contention of the petitioner is that it is too late in the day for Respondent No. 2 now to state that the office from which the petitioner came on deputation is a non-conforming one. The Respondent No. 2 themselves had circulated the circular to all kinds

of institutions as referred above which of course includes non-conforming offices as well, and after selection of the petitioner, the respondents had written to Respondent No. 3 asking for his CRs entries/Annual reports to which Respondent No. 3 had replied as early on 15.11.1988 that the respondent No. 3 is a non-official society and such practices are not followed in these organisation. If the respondent No. 2 had thereafter given appointment to the petitioner, the Respondent No. 2 could not have repatriated the petitioner prematurely. The petitioner has a legitimate expectation to continue with the respondent in the normal course atleast for three years and thereafter a right to be considered for appointment on transfer, in case the petitioner is not found unfit.

4. In the circumstances the order of premature repatriation to a no-man's land on the ground that the petitioner came from a non conforming office being untenable is an order that cannot stand. In this case the petitioner does not retain a lien with his office of origin.

5. The respondents vehemently argued that even if, the respondent No. 2 had appointed the petitioner on deputation, it was a mistake and since they detected the mistake subsequently they passed the order to repatriate him to the parent office, to which they are entitled to.

6. We have perused the records and we find that the Respondent No. 3 organisation is an autonomous body controlled and managed substantially by the Government of India. Even though the respondent No. 3 is a Society and was registered as Indian Society of Agricultural Statistics, the President of the said Society is the President of India, 'ex-officio' and the Executive President is the Vice Chairman of the ICAR which is again a Government functioning. The two Vice Presidents in the Executive Committee were the Deputy Commissioner, Ambala and the Agricultural Production Adviser of Government of India. The Secretary of the Society was the Statistical Adviser to ICAR and the Joint Secretary as well as the Treasurer were both Statisticians of ICAR. Thus all the officer bearers of the Society are part and parcel of the Government of India. Besides, it was found that the finance for running of the Respondent No. 3 Society came substantially from the Government of India, and by an order dated 2.5.1988, the Respondent No. 3 Society has been declared as an autonomous body substantially financed by the Government of India and has been included among those bodies, where grant-in-aid paid from the Consolidated Fund of India is not less than 75% of the total expenditure of the institution. The petitioner had also produced various records to show that the funds for the running of the Society came from the Government of India. In the circumstances we are of the opinion that the respondent No. 3 is an autonomous body substantially financed and controlled by the Government of India.

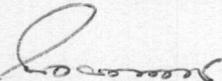
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7. The Respondent No. 3, on the other hand, stated that since the petitioner before joining the Respondent No. 2 had resigned from Respondent No. 3, thereafter when the Respondent No. 2 intimated the petitioner that he may be relieved and the promotion of Respondent No. 3 is required to post him in any of the State Capitals, the Respondent No. 3 seems to have insisted from the petitioner for a resignation letter. We are not sure of the legality of such action of the Respondent No. 3. When Respondent No. 3 had forwarded the application of the petitioner in accordance with the circular mentioned above and thereafter the Respondent No. 2 intimated the facts of selection to Respondent No. 3 and sought permission to appoint him at different State Capitals and also requested Respondent No. 3 to relieve him, whether it was right on the part of Respondent No. 3 to insist for resignation of the petitioner. In any case since we are inclined to quash the premature repatriation of the petitioner and there is no allegation that the resignation was involuntarily, it is not necessary for us to decide whether the action of the Respondent No. 3 compelling the petitioner to resign is correct or not.

8. Since no other grounds or arguments had been advanced, we would allow this OA and quash the impugned order of premature repatriation, on the ground that the same has been passed on an extraneous consideration not germane to the rules.

9. Considering the plight of the petitioner caught between devil and the sea, we thought it appropriate to direct the Respondent No. 2, on their own, to find a solution to the problem. We have adjourned the matter on three occasions to enable the Respondent No. 2 to come up with an amicable solution. We are afraid the opportunity given was not utilised by the Respondent No. 2. In the circumstances we proceed to pass the following direction:

1. The premature repatriation order dated 17.7.1990 is quashed;
2. Respondents are directed to permit the petitioner to continue his deputation initially for three years thereafter consider his extention or appointment on transfer in accordance with the rules, unless the petitioner has been found unfit.
3. Petitioner is entitled to resume duty forthwith but is not entitled to any arrears. At the same time the Respondents shall not pass any order before completion of three years, adverse to the petitioner.
4. we are not granting any arrears to the petitioner and this petition is pending in this Court since 1991, a consolidated cost of Rs. 10,000/- is directed to be paid to the petitioner.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

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