

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

* * *

Date of Decision: 14.08.1992

OA 1356/91

VIRENDER KUMAR JAIN ... APPLICANT.

Vs.

DELHI ADMINISTRATION & ORS. ... RESPONDENTS.

CORAM:

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

For the Applicant ... SHRI SUNIL KUMAR.

For the Respondents ... SHRI D.N. GOVERDHAN.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT

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

The applicant is aggrieved by the order dated 23.4.1991 by which the applicant has been transferred from Traffic Unit to Civil Aviation Unit of RTCA Distt. with immediate effect. The applicant has claimed the relief that the said order dated 23.4.91 be quashed by which the applicant was transferred from Shahdara to Palam and to direct the respondents to allow him to join the duties in some area nearby his residence and further, the salaries of the applicant be released.

2. The respondents contested this application and took the preliminary objection that the Tribunal has no jurisdiction to entertain the application in absence of a proper Gazette Notification by the Central Government in terms of Section 14(2) of the Central Administrative Tribunals Act, 1985.

3. I have considered this aspect. The applicant is serving as a Home Guard and such persons are governed by the Bombay Home Guards Act, 1947 as extended to the Union Territory of Delhi. Section 2 of the said Act empowers the Chief Commissioner of Delhi (Administrator of the UT of Delhi and the Lt. Governor) to constitute the Union Territory of Delhi a Volunteer Body called the Home Guards, the members of which shall discharge such functions and duties in relation to the protection of persons the security of property and the public safety as may be assigned to them. It is a fact that volunteers enrolled as Home Guards are not assigned any scale of pay and instead of they are paying a nominal sum of Rs.32.50 per day. Thus, according to the respondents, Home Guards do not come within the ambit of civil servant employee in the affairs of the Union or State Governments. I have considered this aspect of the matter. The applicant is on the roll of Home Guards and is being paid from the public ex-chequer. He, therefore, holds a civil post may be on casual basis. He is being paid out of the funds

of the Union of India. The duties assigned to such persons is in the public interest for the welfare of the public in general. Thus, for all purposes when they hold a civil post under Union of India they come within the jurisdiction of the Tribunal and the preliminary objection, therefore, is over-ruled.

4. When the matter came up on 23.7.92, the learned counsel for the applicant Shri Sunil Kumar gave a statement that the applicant is prepared to join duty at the transferred place i.e. at Palam Airport. Shri K.K. Verma, Comp. Comdr. appeared as departmental representative as the counsel for the respondents did not appear. Thus, this application by virtue of the statement of the learned counsel for the applicant so far it relates to the transfer order dated 23.4.91 becomes infructuous. Since the applicant is being paid on the daily basis @ Rs.32.50 or as per prescribed rates so he shall be entitled to draw emoluments the moment he joins with respondents.

5. The application is, therefore, disposed of in the manner that the respondents are directed to allow the applicant to join at the transferred place.

6. It is also evident by the order passed on 31.7.91 by the Division Bench in this case where the learned counsel for the respondents Shri Prem Prakash gave a statement at

the Bar that the applicant shall be taken on duty if he goes and join the duty at Traffic to Civil Aviation Unit of RTCA Distt. (Palam Airport) of Home Guards. The application, therefore, is disposed of with the above observation leaving the parties to bear their own costs.

J. P. Sharma
14.8.91
(J.P. SHARMA)
MEMBER (J)