

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.1366/91

Date of decision: 20.5.93

Sh.Thakur Singh ... Applicant

vs.

Commissioner of Police
Delhi & ors. ... Respondents

Coram: The Hon'ble Mr.J.P.Sharma, Member(J)
The Hon'ble Mr.S.R.Adige, Member(A)

For the Applicant ... Sh.A.S.Grewal, Counsel.

For the Respondents... Sh.B.R.Prashar, counsel

JUDGEMENT

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

The applicant a Constable in Delhi Police has filed this application under Section 19 of the Administrative Tribunals Act, 1985 apprehending his repatriation to his parent department i.e. Central Industrial Security Force(CSIF) from the Delhi Police which he joined on 4.7.88 on deputation. The grievance of the applicant that he is not being absorbed under the relevant rules and prayed the relief that the orders of repatriation of the applicant from deputation be quashed and the applicant be deemed to be on deputation till the finalisation of the criminal case pending in the court of Delhi. This OA was subsequently amended by MP No.3424/92. In the amended OA, the applicant has alleged certain more facts.

2. The respondents contested the OA and stated that the applicant/ came on deputation from CISF was ordered to repatriated by the order dated 9.5.91. He instead of joining

his parent department, he filed the present OA and concealing the fact of repatriation obtained an interim direction on 7.6.91. It is stated that the applicant has no case and the application is devoid of merit.

2. We have heard the learned counsel for the parties at length and have perused the record. The present case is fully covered by a decision of the Principal Bench delivered in OA No.525/92 & batch of cases(Mohd.Safi & ors.Vs.Delhi Administration & ors.) on 2.6.1992. In that judgement the same issue of repatriation of the petitioners in those cases who came on deputation to Delhi Police from the Central Police Organisations came to be considered. It was held therein that "while upholding the decision of the respondents to repatriate the petitioners who did not possess the Matriculation or equivalent qualification to their parent department, we direct the respondents, so far as the following petitioners are concerned, if they file a representation within two weeks from this date and produce material in support of their cases that they possess the Matriculation or equivalent qualification along with the representation, that their cases shall be examined for absorption and if they are found eligible and fit for absorption a decision in this behalf shall be taken within four weeks after receipt of the representations." The right of a deputationist who claimed permanent absorption in the deputed department also came for consideration before the Hon'ble Supreme

Court in RATI LAL B.SONI &ORS.VS.STATE OF GUJRAT & ORS.
reported in AIR 1990 SC 1132 wherein the Hon'ble Supreme Court held that a deputationist has no such right.

3. Now coming to the case in hand, the permanent absorption of a Delhi Police Constable stand regulated by the statutory provisions, namely, Rule 17 of the Delhi Police(General Conditions of Service) Rules, 1980 which reads as follows:-

" The Commissioner of Police, Delhi, may sanction permanent absorption in Delhi Police of upper and lower subordinates except Inspectors from other States/Union Territories and Central Police Organisations, with their consent and with the concurrence of the Head of the Police Force of the State/Union Territory, or the Central Police Organisation concerned. Similarly, the Commissioner of Police, may sanction permanent transfer of upper and lower subordinates of Delhi Police, except Inspectors with their consent for permanent absorption in Police forces of other States/Union Territories or Central Police Organisations, subject to the concurrence of the Head of the Police force concerned. In the case of such permanent transfer of an Inspector of Delhi Police to any other State or vice versa, the Commissioner of Police shall obtain the prior sanction of the Administrator."

It is clear from this statutory provision that the Commissioner of Police, Delhi has been empowered to sanction permanent absorption in Delhi Police of upper and lower subordinates except Inspectors from the States/Union Territories and the Central Police Organisations provided two conditions are satisfied, namely, that the persons concerned have given their consent and the Head of the Police force of the

(J.P.)

State/Union Territory has given his consent.

4. In the present case, the contention of the learned counsel for the respondents is that since the applicant was involved in a criminal case so he was ordered to be repatriated. The applicant was arrested under FIR No.195/90 U/s 223/224 I.P.C registered at Police Station, Shakarpur and a departmental enquiry was also initiated against him and others. That criminal case against the applicant is still pending. The contention of the learned counsel for the applicant is that if he is repatriated during the pendency of the criminal case, he will not be able to get the defence in that case. However, these considerations are alien to the absorption of the applicant in Delhi Police. The applicant has not annexed any No Objection Certificate from his parent department i.e. CISF and he has not been adjudged as suitable for absorption in Delhi Police. The applicant cannot claim as of right for absorption in view of the law laid down by the Supreme Court in AIR 1990 SC 1132(supra).

5. In view of the foregoing discussion, we find no merit in the OA and the same is dismissed and the stay order is vacated. No costs.

Adige
(S.R.ADIGE)
MEMBER(A)

Sharma
(J.P.SHARMA) 21.5.93
MEMBER(J)

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