

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2778/91

Date of decision: 25.9.92

Shri Veer Pal Singh Vaidwan Applicant

Versus

Union of India & Others Respondents

For the Applicant In person

For the Respondents Shri P.P. Khurana, Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*

2. To be referred to the Reporters or not? *yes*

JUDGMENT

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

The short point for consideration is whether an employee who was posted as Accounts Clerk for handling and disbursing cash in a Government office, could be shifted to another seat without complying with the principles of natural justice.

2. We have heard the applicant in person and the learned counsel for the respondents and have gone through the records of the case carefully. In the instant case,

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the applicant, who is Telecom/Assistant (T.O.A.), was posted as Accounts Clerk for handling and disbursing cash in the office of S.D.O.T., Baraut in place of Shri H.S. Agarwal, T.O.A., who had completed 16 years of service and was due for promotion. It was further stated in the order that the applicant would be entitled for special pay admissible under the rules and that the applicant should furnish the necessary security fidelity bond for Rs.4000/-. Approval for such posting was conveyed by the Telecom District Manager pursuant to which the Divisional Engineer issued his Memo, dated 18.12.1989. However, by Memo, dated 31.10.1991, S.D.O.T., Telegraphs, Baraut, directed that the applicant should hand over charge immediately to Shri H.S. Agarwal, who was ordered to work as Accounts Clerk, in addition to his own work and without cash allowance. The memo, states that this order has been passed "in the interest of service". No show-cause notice was issued to the applicant before the impugned order dated 31.10.1991 was passed.

3. The basic contention of the applicant is that he was appointed to the post of Accounts Clerk by the Divisional Engineer and as such, S.D.O.T., who is a subordinate officer, was not competent to issue the impugned order dated 31.10.1991. He has also alleged mala fides on the part of the S.D.O.T., who has issued

the impugned order. As against this, the respondents have stated in their counter-affidavit that the Divisional Engineer had orally given his approval before the passing of the impugned order and that it had to be issued due to his general unsuitability for the work, as was evident from several complaints received from the superior officers and staff members in regard to the work of the applicant.

4. In our considered opinion, the posting of an official to look after the work of Accounts Clerk is not a regular appointment, but is in the nature of a special assignment for which special pay is given, in addition to the normal pay of the official concerned. No official can claim a vested right to such a posting. In the instant case, the S.D.O.T. ^{who} was the higher officer on the spot decided to relieve the applicant from his posting as Accounts Clerk, in view of certain complaints received by him in connection with the day-to-day functioning of the applicant as Accounts Clerk. The Divisional Engineer has countersigned the counter-affidavit filed by the S.D.O.T.

5. The applicant has submitted that the respondents have admitted the allegations contained in para A-13 of the application that the impugned order is "absolutely

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mala fide, illegal, arbitrary and without jurisdiction, in fact, the respondent No.5 was annoyed with the applicant as the applicant has complained against him in the meeting held on 23.9.1991 and since then he had been harassing the applicant on one pretext or another". The learned counsel for the respondents has submitted that there is a typographical mistake in the reply to para. A-13 and that this would be apparent from reading the counter-affidavit as a whole. We are inclined to agree with this submission. The respondents have also filed a Miscellaneous Petition on 9.9.1992 expressing regrets for the typographical error in the reply to para. A-13 of the application.

6. The applicant has stated that he is an office bearer of Bhartiya Telephones Union and as such, he has incurred the wrath of the S.D.O.T., Baraut. We are not impressed by this contention. As the applicant has no vested right to the posting as Accounts Clerk, we are of the opinion that this is not a fit case in which the Tribunal should interfere with the internal arrangements made by the respondents in a matter of this kind. In this view of the matter, we see no merit in the application and the same is dismissed. There will be no order as to costs.

B.N. Dhondiyal
(B.N. Dhondiyal) 25/8/92
Administrative Member

P.K. Kartha
25/8/92
(P.K. Kartha)
Vice-Chairman(Judl.)