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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 2886/91.

Date of decision 23-2-93

Shri Ved Pal ... Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Mr. Justice S.P. Mukerji, Vice-Chairman (A)

The Hon'ble Mr. C.J. Rey, Member (j)

For the Applicant ... Shri D.P. Chopra, counsel.

For the Respondents ... Shri A.K. Aggarwal, counsel.

(1) Whether Reporters of local papers may be allowed
to see the judgement ?

(2) To be referred to the Reporter or not ?

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Delivered by Hon'ble Shri C.J. Rey, Member (j)

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 filed by the applicant
claiming the following reliefs :-

(i) That the D.I.G. Central Jail Tihar may be
directed to send the last pay certificate
of the applicant immediately to the Principal
of the Govt. Girls Senior Secondary School
Mitraen without any loss of time so that the

salary of the applicant could be drawn and paid to him.

(ii) That the applicant may be allowed to be paid 18% interest on the amount of his salary of about 9 months illegally withheld by the defaulting authority.

(iii) That the order of the D.I.G. (Prisons)

Central Jail Tihar N.O.F. 18(96)/Estt/

CJ/90/5913 dated 10.5.1991 cancelling

the allotment of quarter No.D-25 at

Central Jail Tihar premises may be

declared illegal and bad in law and

may be quashed and the applicant may be

allowed to retain this quarter till an

alternative Govt. quarter is allotted to him.

2. The applicant was selected as a Warden in Central

Jail, Tihar, New Delhi and he joined his duty as a Warden on 21.5.1981 and he has been working there since then.

It appears that the Education Department of Delhi Adminis-

tration issued a Circular letter No. DE-1(ii)(I)/90-Edn/

Estt/1-14934-998 dated 14.5.1990 to all the departments

under Delhi Administration for sending names of all the

eligible employees who desired to be promoted as Lab.

Assistants. The applicant sent his application against these posts on 28.5.1990 through proper channel.

3. The applicant was promoted as a Laboratory Assistant on purely temporary and ad hoc basis, as per his averment, vide eligibility list circulated by Joint Director (Education) vide No. F1(ii)(i)/90/E-1/29701-30101 dated 25.9.1990, the condition being only those employees who had promoted as Lab. Assistants in the scale of Rs. 1200-2040 on purely temporary and ad hoc basis. He also claims that the name of the applicant is at s.no. 29.

4. Consequent upon his promotion as Lab. Assistant, the applicant was relieved from his duties at Central Jail, Tihar vide order No.F.18(86)/Estt/CJ/90/3631-50, dated 20th March, 1991 of the D.I.G. Prisons Central Jail Tihar and was directed to report to the Deputy Director of Education, West District immediately.

5. After that, the applicant reported for duty at the office of the Deputy Director of Education, West District on 21.3.1991 and vide further orders of the Deputy Director

Education, West District No. 231 conveyed vide his office endorsement No. DOW/30/P&T/LA/Admn/91/5670-5820 dated 1.4.1991 the applicant was posted as Lab. Assistant at Government Girls Senior Secondary School Mitraon where he is still working. The applicant further states that no dues certificates in respect of the applicant at Central Jail Tihar was duly obtained by him as required vide DIG Prisons order No. 3374, dated 25.3.1991 from various officers incharge of their respective sections in Central Jail Tihar and was duly delivered in the office of the DIG Prisons by the applicant.

6. The Last Pay Certificate was not sent by the DIG Prisons thereafter, though he made several representations. As a result of which the Principal of Govt. Girls Senior Secondary School, Mitraon had not been able to draw his salary ever since March 1991 and no salary has been paid to the applicant for the last 9 months and the applicant is in great financial distress.

7. The applicant also avers that the DIG, Prisons issued another order vide No. F.18(96)/Estt/CJ/90/5913, dated 10.5.1991 cancelling the allotment of Gr.No. D-25

which is in the occupation of the applicant since August, 1985 and another letter No. F19(312)/Estt/CJ/88/9215 dated 12.8.1991 was also issued by DIG, Prison to the Principal, GGSSS, Mitraan asking the applicant to vacate the quarter within 7 days. The applicant also gave a representation dated 1.8.1991 requesting the latter to give him the LPC and that he has also asked the allotment at new place and when a quarter is allotted to him, he will ^Vacate the quarter No. D-25 at Central Jail, Tihar till then he may be allowed to stay in the said quarter. But the respondents stated that unless he vacates the quarter his LPC would not be forwarded.

a. The applicant sent another letter on 19.8.1991 to the DIG, Prison requesting for retention of the quarter. This was also rejected by the DIG, Prison vide letter No. F19(312/Estt/CJ/88/9694 dated 28.8.1991. The DIG, Prison is withholding the applicant's Last Pay Certificate. Therefore, the applicant files this O.A. claiming the reliefs.

9. A counter has also been filed by the respondents taking objections that as and when any of the Jail employee is relieved from that department he has to submit a

'No Dues Certificate' before getting the last pay certificate. In ~~the~~ instant case ^{the} through the official has produced the No Dues Certificate as regards the vacation of Jail Staff Quarter has not been given. The Staff Quarters are allotted to only employees of Jail cadre according to the availability of accommodation, the reason being the Jail security. In doing ~~the~~ ^{the} seniority is not only criteria. The Class IV official who do not get the staff quarter due to paucity of quarters are provided barrack accommodation. As he has been already promoted and posted in different department and if a person is posted in his place he will suffer if the quarter is not vacated. The Warden who are not provided with jail quarters are paid additional HRA which is not paid to the other employees of the Delhi Administration. If the applicant is allowed to retain the quarter, the counter says, the other person of the staff has to be paid additional HRA which is a loss to the exchequer, and also invites objection from audit point of view. The outsider may also prove to be security risk. In the interest of natural justice, withholding of LPC

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from being given is not against law but in view of the non-submission of no dues certificate for the vacancy of quarter. The respondents are not to be blamed for the fault of the applicant. The cancellation of the quarter to the applicant is totally justified, and they further say that the present employee of the department are drawing salary without LPC at the minimum of pay-scale as per rules. The interim order granted in this U.A. may be vacated.

10. Because of the interim order passed by this Tribunal on 6.12.1991, LPC of the applicant has been issued to his present office i.e. Principal, Govt. Girls Senior Secondary School Mitraon on 19.12.1991 and the licence fee of the applicant has also been reduced from market rent to normal licence fee vide O.O.No. F.19(312)/Estt/CJ/88/8697-98 dated 28.7.92 addressed to Principal Govt. Girls Senior Secondary School Mitraon from Rs. 190/- P.M. to Rs. 35/-P.M. upto 31.3.92 and w.e.f. 1.4.92 onwards @ Rs. 45/- P.M.

11. A rejoinder has also been filed by the applicant more or less asserting the same points further adding that since he had been serving in the jail for more than 10 years, and since his appointment is on purely ad hoc basis, he may not be allotted quarter there and he is

apprehending that he will be reverting back to the Jail Department, which is under Delhi Administration especially when he may need if he is reverted. This has also been one of the point made in the rejoinder.

12. He further alleges that against his ad hoc appointment an SLP in the Supreme Court is pending.

13. We have heard the Ld. counsel of the applicant and of the revival side. Short point is whether the applicant can retain the quarter after his transfer order to Jail Department. It is seen from the records that on 1.4.1991 he has joined the new Department and he also admits that he asked for allotment of a quarter in the Education Department of the Delhi Administration. It is also stated in the counter that on 6.12.1991, LPC was issued to the concerned Principal wherein the applicant is working as per the counter avarment. In the rejoinder, the applicant admits that with reference to para 4(k) of the counter the "respondents has since released the LPC of the applicant on the directions from the Hon'ble Tribunal." The original grievance of the applicant that his LPC was withheld and his salaries could not be drawn is no longer a ground of grievance

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since the LPC has already been released. The applicant cannot, as a matter of right, claim the retention of the quarter in the Jail Department which is situated in the compound of the Jail, which is required for the other incumbents warden, who ^{is} ~~was~~ supposed to stay there and ^{is} ~~was~~ discharge ^{the} ~~their~~ functions.

14. By no stretch of imagination or logic after his LPC is released and he has also applied for a quarter from the Education Department wherein he has been posted and working, he cannot be allowed to retain ~~the~~ quarter after his promotion and transfer and relief ^{and} ~~by~~ joining the different department where ~~he~~ ^{also} he is ~~already~~ entitled to get a separate quarter. It cannot be stated that until he is allotted a quarter, he will not vacate the quarter. It does not fit in the logic that after the promotion and shifting the department, he should continue to live in the said quarter which is situated in the compound of the Jail Tihar when he ceases to work in the Jail.

15. The applicant has failed to make out a case for retention of his quarter. There is no arbitrariness, malafides discrimination is attributable to the respondents in this case.

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16. Under the circumstances, the interim order is directed to be vacated. The petition is dismissed with no order as to costs.

Worley
(C.J. Ray)

Member (J)

Sarkar
(S.P. Mukerji)

Vice-Chairman (A)