

(3)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**N E W D E L H I**

O.A. No. 320/1991  
T.A. No.

199

DATE OF DECISION 22.02.1991.

|                                    |                                |
|------------------------------------|--------------------------------|
| <u>Shri R.L. Yadav</u>             | Petitioner                     |
| <u>Shri S.S. Tiwari</u>            | Advocate for the Petitioner(s) |
| Versus                             |                                |
| <u>Union of India &amp; Others</u> | Respondent                     |
| <u>Mrs. Raj Kumari Chopra</u>      | Advocate for the Respondent(s) |

**CORAM**

The Hon'ble Mr. P.K. KARITHA, VICE CHAIRMAN(J)

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

**JUDGMENT**

(of the Bench delivered by Hon'ble Mr. M.M. Singh,  
Administrative Member)

The gravamen of this original application filed under Section 19 of the Administrative Tribunals, Act, 1985, is that the impugned order (Annexure-A, page 10 of the paper book) for posting to Bhatinda advising the applicant to collect the movement order is liable to be quashed and set aside because a Bench of this Tribunal had, in OA No.1457/90 filed by the applicant to question the order about his voluntary retirement, directed the respondent by interim orders not to implement the voluntary retirement order till further directions/final hearing on 3.4.1991.

2. The first para of the impugned order which orderd cancel

H M Sru

is a formal official letter addressed to the applicant contains the reasons as to why the respondents had to issue it. The reason is that the applicant was asked on 30.1.1991 to collect the movement order No.1007/698/E-1 dated 29th January, 1991 but he promised to collect it on 31.1.1991 and he gave a letter to that effect. Relief at para 8(a) of the application, while impugning such a letter for quashing and setting aside also seeks quashing and setting aside of order dated 29.1.1991, strangely without impugning the same and even without annexing its copy.

3. To first deal with the applicant's relief seeking quashing and setting aside of the letter dated 31.1.1991, we gave our anxious and close look to its contents. We notice that the intrinsic nature of this letter is advisory. It merely advises the applicant to collect movement order which the applicant, as stated above, is said to have not collected on 30.1.1991 but promised to collect on 31.1.1991. To grant the relief of quashing and setting aside such a letter would imply stopping the respondents from discharging what appears to us in this case is their discharge of a formal duty of advising the applicant to accept an official letter. We are of the view that the applicant owes it as his duty as a Government servant to accept an official letter.

M. M. Srin

addressed to him. Thus viewed, it is clear that the relief of quashing and setting aside the letter of 31.1.1991 cannot be granted. The relief sought though ingenious is altogether untenable and wholly unreasonable in the field of official correspondence and work and its modality.

4. Coming to the second part of the relief, namely, quashing and setting aside "the so called movement order dated 29.1.1991 bearing No.1007/698/E-1 as stated in the impugned order", the effort is to persuade us to quash the said order dated 29.1.1991, without giving the relevant grounds in support of the prayer. The applicant has not alleged any mala fides or violation of transfer policy. He has also not contended that he is holding a non-transferable post. This part of the relief is thus also liable to be rejected as untenable in these circumstances.

5. With our above views and understanding with regard to the only two reliefs sought in this application, we do not consider it necessary to address ourselves to issues like abuse of legal process, legal doctrines of *functus officio*, of

H. M. S.

constructive res judicata and of promissory estoppel ably argued before us by the learned counsel of both parties backing their respective submissions with precedents. For the same reasons, we do not address ourselves to the bulk of pleadings in the application and submissions rooted to challenge the order of voluntary retirement arising in OA 1457/90 but from there routed to challenge and impugn a formal official letter dated 31.1.1991 the intrinsic nature of the contents of which we have discussed above and the ~~xxxxxx~~ <sup>H</sup> ~~xxxxxx~~ order of transfer dated 29.1.1991 not placed before us. Issues pertaining to compulsory retirement arising in the separate OA filed to question the same are not in the facts and circumstances discussed above, germane to question the formal official letter of 31.1.1991 and an order dated 29.1.1991 stated to be of transfer of the applicant when, as seen from the original application, the applicant nurses the grievance that the respondents have committed contempt of the interim orders passed by a Bench of this Tribunal in OA 1457/90. If so, the applicant has to seek proper remedy accordingly instead of merely saying that the conduct of the respondents, to quote from the application, "amounts to contempt for which a notice was given by the applicant".

H. M. J.

6. The original application is, therefore, liable to be dismissed. We order accordingly. There are no orders as to costs.

M. M. Singh  
27/2/91  
(M.M. SINGH)  
ADMINISTRATIVE MEMBER

Arrived  
22-2-91  
(P.K. KANTHA)  
VICE CHAIRMAN (J)