

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 378/91
T.A. No.

199

DATE OF DECISION 10.4.1992

Shri Madan Mohan	Petitioner Applicant
Shri B.B. Raval	Advocate for the Petitioner Applicant
Versus Union of India & Others	Respondent
Shri M.L. Verma	Advocate for the Respondent(s)

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

The Hon'ble Mr. A.B. Gorthi, 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? *MC*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is a Cartoonist in the Central Health Education Bureau, Ministry of Health & Family Welfare, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) To quash the proceedings of the D.P.C./ Selection Committee held in April-May, 1990 on the basis of willingness/applications invited pursuant to the Memorandum dated 10.3.1989 in the Advance Level Telecom Training Centre, Ghaziabad (ALTTC);

- (ii) to direct the respondents to fill up the post of Artist on regular transfer basis in accordance with the 1989 memorandum.

2. We have heard the learned counsel for both the parties and have considered the rival contentions. The applicant joined the Central Health Education Bureau, Government of India, New Delhi, in 1972 as a Cartoonist. He went on deputation as Artist to the A.L.T.T.C., Ghaziabad under the Department of Telecommunications, Ministry of Communications vide memorandum dated 30.10.1985. The deputation initially was for a period of one year. Normally, the deputation is for a period of three years. He completed this period in 1988. Thereafter, his parent department wrote to the Assistant Director General, Ministry of Communications on 23.2.1989 referring to their previous letter dated 29.4.1988 and subsequent reminders on the subject of deputation of the applicant as Artist in the Telecommunications Department, Ghaziabad, wherein it was stated that his deputation period had already been completed and that no further extension would be allowed to him. Accordingly, it was requested that the applicant might be relieved and asked to report for duty immediately to his parent department. In case he was not relieved to join his parent department, it will be presumed that he was being absorbed and hence his lien in that department would be terminated.

3. On receipt of the aforesaid letter, the Ministry of Communications vide their letter dated 14.3.1989, asked the General Manager, Telecom, Ghaziabad, that the applicant be relieved immediately to enable him to join his parent department. Accordingly, he was relieved on 16.3.1989 with instructions to report to his parent office vide memorandum dated 15.3.1989.

4. The version of the applicant is that while working on deputation at Ghaziabad, he came across an office memorandum dated 10.3.1989 circulated to all the ministries/ departments of the Government of India for recommendation of names of suitable officers to fill up the post of Artist on transfer basis in the office where he had been deputed. He submitted through proper channel an application dated 10.4.1989 for the post of Artist pursuant to the aforesaid circular. This was also forwarded to the Director (Staff), Telecommunications, Deptt. of Telecommunications, New Delhi vide letter of the parent office dated 19.7.1989. The applicant has stated that the Ministry of Communications wrote to his parent office on 24.11.1989 asking for his C.R. dossier to finalise selection for the post of Artist in their Ghaziabad Office on regular basis. The Deputy Director (Admn.) of his parent office forwarded his C.R. dossier to them on 1.2.1990. As he did not receive any reply, he sent a representation on 24.5.1990. With

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reference to this representation, the Ministry of Communications, vide their letter dated 8.6.1990, informed him that the post of Artist in their Ghaziabad office had been readvertised and he was advised to apply afresh through proper channel. This was also done by him.

5. The applicant has stated that he had come to know that the Selection Committee which held its meeting in April-May, 1990 for selection of an Artist, was advised by the office at Ghaziabad, in 1989 to be filled up on a regular basis, did not select anyone as no one was found suitable. His apprehension is that this was done due to some vested interests having influenced the Selection Committee. This has not been admitted by the respondents in their counter-affidavit.

6. The post of Artist in the Advance Level Telecom Training Centre at Ghaziabad was again sought to be filled up on transfer basis by O.M. dated 28.5.1990 and the ministries/departments of the Government of India were requested to send the names of suitable persons for that purpose. The applicant apprehends that this also may meet the fate as the process of selection conducted in April-May, 1990.

7. The respondents have stated in their counter-affidavit that there were three posts of Artist in ALTTC, Ghaziabad. One of these posts stands filled up on permanent absorption basis. One had fallen vacant w.e.f. 13.3.1991

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on completion of deputation term by its incumbent. The third post stands abolished after the applicant was repatriated to his parent office on completion of his period of deputation. The post which was occupied on deputation basis till 13.3.1991, was required to be filled up on permanent basis. That is how the circular letter dated 10.3.1989 was issued to all ministries/departments, inviting nomination of suitable officers. Seven officers, including the applicant, applied for the post but none was found suitable. The post was recirculated vide letter dated 28.5.1990. The C.R. dossiers of all the volunteers had not yet been received and the selection process was not yet complete. In the meanwhile, it has been decided by the respondents that ALTTC no more requires another post of Artist with the present changed scenario and induction of sophisticated software on Macintosh Computers.

8. During the hearing of the case, our attention has been drawn to the relevant recruitment rules which provide for filling up of the post of Artist by transfer on deputation/transfer. The applicant had a stint in the office of the ALTTC on deputation. He is also stated to be well-qualified to be considered for absorption on transfer basis. In the meanwhile, the respondents have decided not to fill up the post of Artist on permanent basis. The Tribunal

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cannot issue a mandatory direction to the respondents to fill up a post in case they have decided, as a matter of policy, not to fill up the same. At the most, the applicant has only a right to be considered for appointment on regular basis by transfer in accordance with the relevant recruitment rules, as and when the respondents decide to fill up that post.

9. The applicant has not substantiated the allegation of mala fides made against the respondents. The applicant has stated that the Selection Committee did not select any person for appointment on regular basis because the respondents wanted to favour some person. In this context, he has mentioned the name of one, Smt. Anita Arora, who had been kept on deputation by giving extensions to her. The respondents have stated in their counter-affidavit that Mrs. Anita Arora already stands repatriated to her parent office.

10. In the light of the foregoing discussion, the application is disposed of with the direction to the respondents to consider the suitability of the applicant for appointment as Artist on transfer on regular basis in the office of ALTTC as and when they decide to fill up the same on regular basis. The application is disposed of accordingly. There will be no order as to costs.

A. B. Gorthi
(A.B. Gorthi)
Administrative Member

P. K. Kartha
(P.K. Kartha)
Vice-Chairman (Judl.)