

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

....

O.A.NO. 2079/92

6
Date of decision : 19.01.1993.

SH. SHRI CHAND

...

APPLICANT

VERSUS

UNION OF INDIA

....

RESPONDENTS

CORAM:-

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

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

COUNSEL FOR THE APPLICANT : H. ASHISH KALIA, PROXY COUNSEL
OR SH. R.L. SETHI, COUNSEL FOR
THE APPLICANT.

COUNSEL FOR THE RESPONDENTS : S. GEETA LUTHRA

JUDGEMENT(ALL)

(delivered by Hon'ble Sh. E. Jain, Member(A)).

The applicant who was serving in the C.R.P.F. came to Delhi Police on deputation initially for a period of one year w.e.f. 4.4.1988 and as posted as Constable. He is aggrieved by the impugned order dt. 3.8.1992 (Annexure A-I) by which he has been retriated to his parent department i.e. C.R.P.F. on the ground that his services are not more required in Delhi Police. The contention of the applicant is that he fulfils the criteria laid down by the respondents for permanent absorption in Delhi Police, ^{and} though juniors to him had been permanently absorbed, he is being discriminated arbitrarily.

2. The respondents have contested the O.A. by filing their reply to which rejoinder has also been filed by the applicant.

3. By an order passed on 20.8.1992, the respondents were directed not to relieve the applicant if not already relieved, till 03.09.92. This interim order is continued since then. The pleadings in this case are complete. We have perused the material on record and have also heard the learned counsel for the parties for the final disposal of this O.A. at the admission stage itself.

4. The respondents in their reply have stated that the following criteria has been followed for ^{consideration} ~~recommendation~~ of persons who were on deputation in Delhi Police for their permanent absorption;

- (a) They all must be matric or above;
- (b) Their NOC must have been received from the parent department;
- (c) They should be below 40 years of age;
- (d) They should be recommended by their respective DCPs for permanent absorption;
- (e) Consent of the applicant.

5. The respondents have conceded that the applicant fulfils the requirements as laid down in (a), ^(b) (c) and (e), but the D.P.C.P. concerned ^{instead} ~~inspite~~ of recommending the applicant for permanent absorption recommended his repatriation. It is also stated in para 5.2 of the counter-affidavit that the applicant has shown false order book to the Munshi and proceeded on leave without lodging any entry in the police diary. This act amounts to grave

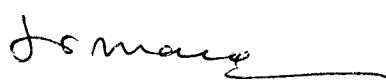
misconduct. The applicant in his rejoinder to paras 5 to 8 of the counter-affidavit has stated; "Wrongly and denied submissions made are in the O.A. is reiterated". It will thus be seen that there is no effective denial of the statement of the respondents in para 5.2 of their reply. In view of this, it cannot be held that the criteria laid down by the respondents is ^{fulfilled} ~~available~~ in the case of the applicant. The criteria as such is not assailed by the applicant.

6. As regards the plea of discrimination, it needs to be stated that the principle of equity enshrined in Article 14 of the Constitution is applicable only among equals in all respects. The applicant has not shown that any other person who came on deputation to Delhi Police has been permanently absorbed therein, ^{even though he} ~~he~~ was not recommended for permanent absorption by the D.P.P. concerned. In view of this, the ^{plea of} ~~clear~~ discrimination cannot be said to be substantiated.

7. ^{C.} The learned counsel for the respondents also drew our attention to the judgement of the Hon'ble Supreme Court in the case of ^{C.} ~~Ratilal~~ ^B Soni Vs. State of Gujarat ^{C.} ~~which~~ reported in AIR 1990 SC 1132 in which it has been held that a government servant on deputation has no legal right to be absorbed in ^{the borrowing} ~~government~~ department. There has been a number of judgements by the Principal Bench of the Tribunal in similar matters and this principal has been with-held in all cases that deputationists have ^{C.} ~~no~~ legal right to be permanently absorbed in the ^{the borrowing} ~~government~~ department. Moreover,

as already stated above, the applicant does not fulfil the criteria laid down for consideration of such cases for permanent absorption.

8. In the light of the foregoing discussion, we are of the considered view that the O.A. is devoid of merit and the same is accordingly dismissed leaving the parties to bear their own costs. Interim order passed on 20.8.1992 stands automatically vacated.


(J.P. SHARMA)
MEMBER(J)


(P.C. JAIN)
MEMBER(A)