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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2928/92

New Delhi: this the 10th February, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri P. C. Chaswal,
S/o Late Shri Gurbachan Dass,
R/o G-332, Preet Vihar,
Delhi - 092.

Ex. Administrative Officer,
CGHS, under DGHS, Ministry of Health,
Nirman Bhawan,
New Delhi - 001.

..... Applicant.

(Applicant in person)

Versus

1. Union of India through
the Secretary,
Ministry of Health Services,
Nirman Bhawan,
New Delhi - 001

2. The Director General of Health Services,
Nirman Bhawan,
New Delhi - 001

..... Respondents.

(By Advocate: Shri N. S. Mehta)

JUDGMENT

BY HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

Applicant impugns Respondents' order dated 22.1.81 together with consequential benefits. Alternatively he prays for appointment as Administrative Officer from 23.1.82 instead of 9.3.83 at the rate of Rs.1000/- p.m. in the pay scale of Rs.840-1200 (P R). Compensation has also been sought by him from the respondents.

2. Admittedly applicant was appointed as

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Asstt. Depot Manager in CGHS, Delhi on adhoc basis in the pay scale of Rs. 650-1200 vide order dated 2.6.72 w.e.f. 19.5.72 (Annexure-B) and was reverted by order dated 22.1.81 (Annexure-C). The applicant represented against the said reversion order vide representation dated 23.1.81 (Annexure-D) but simultaneously proceeded on leave w.e.f. 23.1.81 and on return from leave he resumed duty as Office Superintendent (OS) w.e.f. 28.4.82 in the pay scale of Rs. 550-750. Respondents admit that the pay drawn by applicant as Asstt. Depot Manager (ADM) immediately before his reversion as OS was Rs. 1000/- and upon his resuming duty as OS his pay was fixed at maximum of the pay scale of OS i.e. Rs. 750/-. On 9.3.83 he was appointed as Administrative Officer (AO) in the pay scale of Rs. 840-1200 and his pay was fixed at Rs. 840/-.

3. Applicant states that he was illegally and arbitrarily reverted from the post of ADM vide order dated 22.1.81 and claims that on his return from leave he should have been appointed as AO from 23.1.82 instead of 9.3.83 @ Rs. 1000/- in the pay scale of Rs. 840-1200.

4. Respondents in their reply contend that applicant was not reverted from the post of ADM without reason. They state that while working as ADM there was some complaints against him. He is alleged to have issued blank inspection note duly signed by him in regard to certain supply received from firm. Since the inspection note was a proof of receipt of goods in the Medical Store Depot ^{on the basis of} ~~which~~ ^{which} the firm claim payment, a blank inspection note

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issued by applicant could have caused financial loss to Govt. but for the vigilant and timely action of the Dy. Asstt. Director, Incharge of the Store, it was saved. The other charge against applicant was that the CGHS, Medical Store Depot, RML Hospital suffered a loss of over Rs.75000/- due to gross negligence and lack of observance of procedural formalities on his part. It is stated that the applicant intimated vide letter dated 11.9.80 to DG S & D that the CGHS, Medical Store Depot had not suffered any loss due to delayed supply of medicines, but in reality the Depot had to purchase the medicines from alternative sources at higher price and the damages on this account were recoverable from the firm if the applicant had intimated to DG S&D that the Medical Store Depot had suffered loss due to belated supply by the firm against contract signed by them.

5. As regards the allegation about issue of blank inspection note, the applicant has contended in his rejoinder as well as during hearing that the inspection notes are issued in triplicate. He states that in this particular case, the DAD Stores came to him and wanted an attested copy of the 2nd copy of Inspection Note as the same was not traceable in his own office. He states that DAD did not allow time to complete the form and informed that the formalities of the completion of form would be done by him and he just wanted the applicant to sign the same. As ^A Senior Officer was compelling him, he could not refuse. He signed in good faith which DAD exploited later on for a grouse he had been breeding for a long. The reason why the DAD had a

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grouse against the applicant has not been fully explained and in any case the applicant has not denied issuing the blank inspection note.

6. Even without going into the other charge of causing loss to the respondents, the lapse committed by the applicant in issuing a blank inspection note is itself sufficient for respondents to have taken the view that applicant was not functioning satisfactorily as ADM.

7. Under the circumstance, having regard to the fact that the applicant was appointed as ADM only on adhoc basis, it cannot be said that respondents acted arbitrarily or illegally in reverting him to his substantive post. The applicant has relied upon the Delhi High Court's judgment dated 23.5.78 K.C.Sharma Vs. Delhi Administration & another 1978 (2) SLR 380, which lays down the proposition that though an adhoc appointee holds his tenure precariously, ^{he} cannot be reverted without rhyme or reason and may be reverted only for valid reasons such as unfitness to hold the post, availability of a person holding lien on the post, selection of a regular incumbent and other exigencies of public service. In the present case, the applicant himself does not deny having issued a blank inspection note, which itself is sufficient to show that he was not reverted without reason. The sufficiency of that reason is not something in which the Tribunal can go into.

8. As regards the pay protection claimed by

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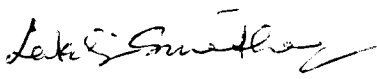
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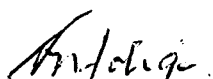
the applicant on his resumption of duty on return from leave, we notice that the post of ADM was an ex cadre post which was eventually abolished in November, 1981, and the benefit of pay protection while holding an ex cadre post is not admissible under rules.

9. In view of the above, we find ourselves unable to rule in favour of the applicant.

10. As a matter of fact, as the impugned order was issued on 22.1.81, the OA is squarely hit by Section 20(2) (1) (a) AT Act, and was liable to be dismissed at the threshold itself, but as the applicant was pursuing his grievances with respondents assiduously before his superannuation in April, 1984 and even thereafter, and received a final reply from them on 29.9.92 (Annexure-A), we have thought it appropriate to go into the merits of his claim.

11. The OA is dismissed. No costs.


(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)


(S. R. ADIGE)
VICE CHAIRMAN (A).

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