

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 504/92

DECIDED ON : September 14, 1992

Const. Rajender Kumar

... Applicant

Vs.

Union of India & Ors.

... Respondents

CCRAM : THE HON'BLE MR. JUSTICE RAM PAL SINGH, V.C. (J)
THE HON'BLE MR. P. C. JAIN, MEMBER (A)

Shri R. L. Sethi, Counsel for the Applicant

Mrs. Geeta Luthra, Counsel for the Respondents

J U D G M E N T

Hon'ble Shri P. C. Jain, Member (A) :-

The applicant was working as a Constable in I.T.B.P. and he came on deputation to the Delhi Police for a period of one year in the first instance on 3.12.1988 but continued to be on deputation till he was ordered to be repatriated to his parent department with immediate effect, on the request of I.T.B.P. authorities, vide order dated 20.1.1992/30.1.1992 (Annexure A-1). In this application under Section 19 of the Administrative Tribunals Act, 1985, he is aggrieved by the aforesaid order on the ground that the same is arbitrary, discriminatory and casts stigma on him. He has prayed that the aforesaid impugned order be quashed.

2. As an interim relief, he has prayed for maintenance of status quo which was granted by an order passed on 3.3.1992 and which has continued since then.

3. The respondents have opposed the O.A. by filing a return to which a rejoinder has also been filed by the applicant. As the pleadings in this case were complete, it was decided

with the consent of both parties to finally dispose of the case at the admission stage itself. Accordingly, we have perused the material on record and also heard the learned counsel for the parties.

4. It is well settled that a Government servant who goes on deputation from his parent department to another department/organisation has no legal or vested right to either continue on deputation for an indefinite period or to finally get absorbed in the borrowing department/organisation. Learned counsel for the applicant rightly and fairly conceded that this was the position of law, but it was so only if there are no rules to the contrary. He contended that Rule 17 of the Delhi Police (General Conditions of Service) Rules, 1980 provides for absorption in Delhi Police of persons who are first taken on deputation, and that in accordance with these rules, the respondents have prepared a scheme for absorption of people taken on deputation and his case was considered under that scheme and he was found suitable. It was, therefore, argued that the repatriation of the applicant to his parent department was arbitrary and also discriminatory inasmuch as persons similarly placed have been absorbed.

5. The case of the respondents is that even in accordance with the provisions of Rule 17 of the aforesaid rules, the concurrence of the head of the department is a condition precedent to permanent absorption in the Delhi Police, and as the parent department did not give no objection certificate to the absorption of the applicant in the Delhi Police, he had to be repatriated to his parent department. Rule 17 of the Delhi Police (General Conditions of Service) Rules, 1980 reads as below :-

"The Commissioner of Police, Delhi, may sanction permanent absorption in Delhi Police of upper and lower subordinates, except Inspectors from other States/Union Territories and Central Police Organisations, with their consent and with the concurrence of the Head of the Police Force of the State/Union Territory, or the Central Police Organisation concerned. Similarly, the Commissioner of Police, may sanction permanent transfer of upper and lower subordinates of Delhi Police, except Inspectors with their consent for permanent absorption in Police forces of other States/Union Territories or Central Police Organisations, subject to the concurrence of the Head of the Police force concerned. In the case of such permanent transfer of an Inspector of Delhi Police to any other State or vice versa, the Commissioner of Police, shall obtain the prior sanction of the Administrator."

6. From a perusal of the above rule, it is clear that the concurrence of the head of the ITBP was one of the conditions precedent before the applicant could be permanently absorbed in the Delhi Police. The impugned order clearly states that the applicant along with three others mentioned therein, ^{to whom} ~~was~~ repatriated to the ITBP on the request of the ITBP itself. The applicant has not placed any material on record to show that the ITBP had given its consent to the absorption of the applicant in the Delhi Police. In view of this, the action of the respondents in ordering repatriation of the applicant to his parent department cannot be said to be arbitrary. Further, the impugned order itself shows, as already stated above, that three other persons who had come on deputation from the ITBP, were ordered to be repatriated simultaneously with the applicant to the ITBP. Thus, the action of the respondents also cannot be said to be discriminatory. Moreover, the applicant has not placed any material on record to show that a Police Constable who had come on deputation to the Delhi Police was ultimately absorbed in the Delhi Police even without the concurrence of his parent department/organisation.

10

- 4 -

7. 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. Needless to state that the interim order passed on 3.3.1992 also automatically stands vacated.

14/9/92
(P. C. JAIN)
MEMBER (A)

14/9/92
(RAM PAL SINGH)
VICE CHAIRMAN (J)

as