

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

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D.A.NO. 1344/93.

DATE OF DECISION 12.8.1993DR. B. SHARMA,

Petitioner

SMT. SHYAMA PAPPU,

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & OTHERS

Respondent

SHRI M.L. VERMA WITH SHRI MANOJ
CHATTERJEE ALONGWITH MS. K.
IYER,

Advocate for the Respondent(s)

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The Hon'ble Mr. B.S. HEGDE, MEMBER (JUDICIAL)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ?

J U D G E M E N T

[Delivered by Hon'ble S hri B.S. Hegde, Member (Judicial)]

The applicant has filed this application under
Section 19 of the Administrative Tribunals Act, 1985
praying for the quashing of the order dated 19.6.1993
in
passed by the respondent No. 1 and/the interim order
praying pending final decision on the application, to
the
stay/operation of impugned order dated 19.6.1993 till
the disposal of the pendency of the original application
and direct the respondents not to create hurdles in the

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work/powers of the applicant and allow the applicant to act in accordance with the rules and regulations of the Department.

2. Heard the arguments of both the counsel. On perusal of the pleadings and documents, prima facie, I find that the prayer made in the main relief and the interim relief is one and the same. After hearing the lengthy arguments of both the sides, I felt, that it would be possible for me to dispose of the main O.A. at the admission stage itself. Since the relief prayed for both in the main relief as well as in the Interim relief is the same. The thrust of the arguments of the learned counsel for the applicant, Smt. Shyama Pappu, Senior Advocate is, having regard to the office Order dated 31st October, 1990, impugned order from the Director vide dated 19.6.1993 is not only arbitrary but also invalid because, by virtue of office order dated 31st October, 1990, the applicant has been appointed with the approval of the Board of Management, therefore, any withdrawal of such powers will have to be done with the approval of the Board of Management and not by the Director alone. It is an undisputed fact, that it is a tenure post for a period of three years

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which term will come to an end on 31st October, 1993. It is also true, that no motive have been attributed while passing the order dated 19.6.93 except the withdrawal of all the powers from Head, Division of Genetics, I.A.R.I. with immediate effect and issue further orders and delegate those powers to the Joint Director, Research, I.A.R.I.

4. The applicant, in his petition, has stated that Director of the I.A.R.I. is biased and without having sufficient ground has withdrawn the powers thereby he cannot perform the duties of controlling officer after withdrawal of Administration and Financial powers. He has also quoted two instances where he did not adhere to the direction of the Director of the Institute, one relating to the appointment of Dr.S.S. Singh in his division which has been resisted by the applicant and the other that he had proceeded on tour without the approval of the Director for which he was issued a memo. and asked to explain the reasons why he had not taken the prior permission of the Director etc. vide letter dated 15.6.1993 (Annexure A-1). Therefore, the learned counsel urged that withdrawal of powers delegated to him by the Director which is discriminatory, arbitrary and in violation of principle of natural justice, and such withdrawal is invariably required to be done with the approval of the Board of Management which is not the case in the instant case.

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5. Whereas the respondents have been represented by Shri M.L. Verma and Shri Manoj Chatterjee have filed a reply to the O.A. ^{and} /vehemently contested the prayer made in the O.A. for interim relief on the ground that the application is without any cause of action as much as no right of the applicant has been infringed by withdrawal of the powers by the Director of the Institute in the interest of the Division, since overall responsibilities had always been with the Director. Further, the applicant has not substantiated, that the withdrawal of the redelegated authority, there is any interference with the basic service conditions of the applicant. They also contend that the application is premature and the applicant has not exhausted all his remedies by not making representations to the higher and appellate authorities. Therefore, the application is required to be dismissed.

6. The Learned Counsel for the respondents strenuously argued keeping in view all the various powers vested with the Director, withdrawal of redelegated powers to the Head of Division does ^{not} /require the approval of the Board of Management and if at all the applicant is aggrieved by ^{has} the said order of withdrawal, he /got a right to make

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representation to the higher authorities which he did not make in this regard so far. In this connection, he draws my attention to the various provisions of the Indian Council of Agriculture Research, Delegation of Powers vested with the Director, rule 20 of which reads as follows :-

" 20. Head of Office

The Director General/Secretary, Indian Council of Agricultural Research have the power to declare any Officer of Group B or above as the Head of an Office. Similarly the Director of an Institute or of a Project has the power to declare a similar officer under him as the 'Head of Office'. However, it is not permissible to declare more than one officer as 'Head of Office' in respect of the same establishment."

" 21. Re-delegation of Powers

The Director General, the Secretary, Indian Council of Agricultural Research/Directors of the Research Institutes/Projects may re-delegate their powers to the subordinate authorities under them to the extent considered necessary for the day to day working of the Office/Institute/Project subject to the observance of the Rules and Orders issued by the Government of India/Council regarding re-delegation of powers to subordinate authorities and also subject to condition that overall responsibility will rest with them".

Rule 111 - Permission to Office-rs to attend conferences
Agricultural

connected with the / matters - powers rest with the Director. The Learned Counsel for the respondents further emphasised, that it is open to the Director of the Research Institute who may re-delegate his powers to the subordinate authorities under him to the extent consider necessary for the day-to-day working of the Institute/Project subject to the observance of rules

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and orders issued by the Government of India/Council regarding re-delegation of powers to subordinate authorities etc.

7. In so far as financial powers, he also draws my attention to the "Operational Manual of Indian Agricultural Research Institute", 1986, page 33, wherein various powers had been delegated by the Council regarding administrative and financial powers and also advised the Director to re-delegate these powers to other officers to suit the requirements of the Institute. Keeping in view the object of the Institute it is open to the Director of the Institute to re-delegate those powers to various officers of the Institute as he deemed fit.

8. I have perused the pleadings of both the parties and heard the arguments of both the counsel. The Learned Counsel for the applicant, Smt. Shyama Pappu, in support of her contention cited Supreme Court's decision in AIR 1967 SC 1260 and also 1976(1) SLR 701. Relying upon the aforesaid decisions, she contended that having conferred the powers with the approval

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of the Board of Management to the applicant, Director
the same
is not empowered to withdraw / suo moto without the
prior approval of the Board of Management. She also
urged that the reply at para 4(b) of the respondents
is unwarranted and not based on substantive ground.
The alleged impugned order passed by respondent No.1
does not attribute any motive to withdraw the powers
delegated to the applicant. Whereas Annexure A is the
appointment of the applicant as Head of the Division
of Genetics with the approval of the Board of Management
for a period of three years, ultimately this is a
tenure post which has to expire by the end of October,
1993.

9. The short question for consideration is whether
the Director is empowered to withdraw the re-delegated
powers to the various Heads of Departments by his
authority, could withdraw the same without the approval
of the Board of Management. As referred to earlier,
the respondents had cited various instances where the
Director is empowered to re-delegate the powers to
various heads of departments and he is also empowered to
withdraw the same without the prior approval of the

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Board of Management. On perusal of page 70 of Operational Manual where the redelegation of powers by the Director, I.A.R.I. to Project Directors/Heads of Divisions and also at page 77 of Operational Manual of IARI where various powers have been mentioned which have been redelegated by the Director to various heads of departments. It is an undisputed fact that the administration and the affairs of the Institute is the responsibility of the Director. Keeping in view of the interest of the Institute, Director is the solely and totally empowered to redelegate or withdraw the same as he deemed fit which cannot be treated as a colourable exercise of powers as alleged by the applicant. As mentioned earlier, the service conditions of the applicant have not been affected or altered by withdrawal of the alleged financial or administrative powers delegated to him by the Director. It is clear that any heads of division before proceeding on tour shall have to take the prior approval of the Director and it is for the Director to see the over-all interest of the Institute whom to post, where and it is not in the interest of the Institute by the Heads of Division to resist the appointment made by the Director, even if he is not inclined take a

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particular candidate sponsored by the Director, the Heads of Division should solve such problems through mutual discussions to aid the administration and under any circumstance, he or she cannot flout the order of the Director, otherwise the homogeneity of the Institute cannot be maintained. In the instant case, the appointment of the applicant as Head of Division has not been disturbed but only certain powers have been withdrawn by the Director which were conferred on him by the Board of Management. The mere withdrawal of delegated powers to Heads of Divisions does not affect their functioning as Heads of Divisions at the most, he can continue as Head of a Division only till 31.10.93 as per Annexure 'A' and in view of what is stated in the averments, the applicant's own conduct, necessitated the Director to resort to the withdrawal of the delegated powers in the interest of the Institute. Therefore, it cannot be said that such withdrawal of powers also requires to be reapproved by the Board of Management before withdrawing the same.

16

10. With the above facts and circumstances of the case, I am of the view, that the applicant has not exhausted the remedial measures as contemplated under Section 20 of the Administrative Tribunals Act, and thus the O.A. is otherwise premature and devoid of merit, and the same is required to be dismissed. Accordingly, I dismiss the O.A. with no order as to costs.

B.S. Hegde
(B.S. HEGDE)
MEMBER(J)