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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2390/93

New Delhi this the 11th Day of January, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)
Shri B.S. Hegde, Judicial Member

R.P. Singh, S/o
Late Sh. Sambar Singh,
RZ-M-37/266, West Sagarpur,
New Delhi.

...Applicant

(By Advocate Sh. D.P. Malhotra)

Versus

1. Lt. Governor, Delhi through
The Chief Secretary, Govt.
of National Capital Territory of Delhi.

2. The Secretary,
Govt. of National Capital Territory,
Delhi.

3. Director, Agricultural Marketing,
Govt. of National Capital Territory
of Delhi, 49, Alipur Road,
Delhi-110054.

...Respondents

(By Advocate Ms. Maninder Kaur)

ORDER(Oral)
(Hon'ble Mr. N.V. Krishnan)

The applicant is an employee of the Government of India under the Ministry of Textiles as an Investigator. He was selected for deputation to the post of Marketing Officer under the Government of National Capital Territory of Delhi and he was employed in that capacity under the third respondent. The period of deputation, admittedly, is from 1.1.93 to 31.12.93. The applicant's complaint is that without allowing him to complete the period of deputation, he has been repatriated by the respondents to his parent department by the Annexure-I order dated 19.7.93. The applicant made a representation to the Lt. Governor against his illegal repatriation (Annexure-V), but no relief was given.

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2. The Ministry of Textiles to whom a copy of the impugned order (Annexure-I) was sent took up the matter with the respondents by the letter dated 22.10.93 (Annexure VII). The Ministry of Textiles stated that, as the deputation period was for one year, ad hoc arrangements were made to fill up the post vacated by the applicant and, therefore, they expressed their inability to accommodate the applicant in their Ministry before the completion of deputation. The Ministry also pointed out that in case of pre-mature repatriation, prior consultation of the parent department ought to have been resorted to, as is the general rule. It is also stated that the applicant had not joined the Ministry and that in case of his absence, it should be regulated by the respondents according to the rules.

3. As the applicant did not receive any satisfactory reply from the respondents, he has filed this O.A. for a direction to quash the impugned order dated 19.7.93 (Annexure-I) and to direct the respondents to allow him to resume his deputation on the post of Marketing Officer and to treat him as continued on deputation w.e.f. 20.7.93, i.e., the date he was repatriated with all consequential benefits.

4. The respondents have filed a reply substantially admitting the facts narrated above. In so far as the letter of the Ministry of Textiles at Annexure A-VIII is concerned, it is stated in paragraph 4.7 of the reply that the applicant's work after he joined on deputation was unsatisfactory and instances of his unsatisfactory work and conduct

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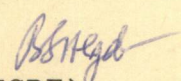
have been given in paragraph-4.7. This is the immediate reason for the impugned order. In paragraph 4.14 of the reply, the respondents state that a reply to the letter of the Ministry of Textiles, i.e., 22.10.93 (Annexure VII) was sent on 11.11.93. A copy of the reply has not been annexed. The learned counsel read out the contents of that letter to us from her file. The purport of that letter is that a complaint had been made by a Member of Parliament and investigation was made which brought to light several instances of irregularities committed by the applicant.

5. We have heard the parties. The question is whether the respondents could have repatriated the applicant prematurely without the consent of the parent department. The parent department has said in unambiguous terms that they are unable to take back the applicant prematurely and they have also contended that before taking such an action the respondents should have consulted them.

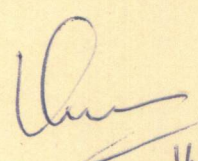
6. We are of the view that if the respondents were unsatisfied with the work of the applicant two courses were open to them. (a) They could have consulted the parent department and sought their permission for the premature repatriation of the applicant and thereafter repatriated the applicant prematurely. Whether that would have been proper or not is not for us to consider in this case. We only state that the premature repatriation could not have been done without the consent of the parent department, particularly when that department has objected to it. (b) The other alternative was that the

respondents could have initiated a disciplinary proceedings against him, including his suspension from the post, in accordance with law.

7. The respondents have not taken either action. We are of the view that the respondents could not have repatriated the applicant in the manner it has been done. In the circumstances, we quash the impugned Annexure-I order dated 19.7.93 and declare that the applicant is to be treated as having continued in service as a Marketing Officer under the third respondent w.e.f. 20.7.93 till 31.12.93 when the deputation came to an end. The respondents are, therefore, directed to give the applicant the pay and allowances for this period within a period of three months from the date of receipt of this order. The applicant has no claim on the respondents after 31.12.93. It is open to him to join the Ministry of Textiles thereafter on the expiry of the period of deputation. No costs.


(B.S. HEGDE)
MEMBER(J)

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11.1.94
(N.V. KRISHNAN)
VICE-CHAIRMAN