IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

③

O.A. No. 749 /93   Date of Decision 30-04-93

Sh.Panna Lal   ...   Applicant

                      V/s

U.O.I. & Others   ...   Respondents

FOR THE APPLICANT   ...   Sh.R.Kumar,counsel

FOR THE RESPONDENTS ...

CORAM

Hon'ble Sh.S.P.Mukerji,Vice Chairman(A)
Hon'ble Sh.J.P.Sharma,Member(J)

JUDGEMENT

Delivered by Sh.J.P.Sharma,Member(J))

        The applicant,   Director(Audit).Income

Tax Department,New Delhi was appointed on 24-4-91 as

Accountant Member of the Income Tax Appellate Tribunal

(Annexure-B).The applicant was posted vide order dated

19-6-91 .to Calcutta. He represented for a posting in

Delhi/near Delhi and vide letter dated 2-7-91 he was

informed that he can be accommodated at Nagpur/Jabalpur.

The applicant was however, posted at Ahmedabad where he

joined. He made representation on 12-11-91 that he may be

posted in Delhi/Jaipur.The applicant again made

representation to the President Income Tax Appellate

Tribunal on 19-11-91 in which he stated as follows:-

(A)

" Therefore, I request you to kindly relieve me at the earliest ao that I can go back to my parent department".

The respondents have issued impugned order dated 16-12-91 as follows:-

" Services of Sh.Panna Lal Accountant Member in the I.T.A.T. are hereby placed at the disposal of the Department of Revenue(CBDT) from the date he relinquishes charge as Accountant Member, Income Tax Appellate Tribunal(Annexure-A).

The applicant appealed against to the competent Authority on 13-1-1991(Annexure A-I) As the applicant has not received any reply, he filed the present application on 16-3-93.The applicant had prayed for grant of reliefs that the impugned order be quashed and the respondents may be directed to continue the applicant in the capacity of Accountant Member with all consequential benefits.

We have heard the Ld.counsel for admission of this matter. The terms and conditions of appointment clearly to go to show as per conditions No.5 as follows:-

> " The appointment may be terminated by the appointing authority at any time without assigning any reason. In that event,the services of the appointee will be replaced at the disposal of the Ministry of Finance(Deptt.of Revenue).In case the appointee wants to resign the appointment,he will be required to give one month's notice to the appointing authority".

The contention of the ld.counsel for the applicant is that being a Scheduled Caste candidate he has been wrongfully reverted to his parent department and he has been discrimated against. We do not find any smell of any discrimination in the impugned order. The impugned order has been passed clearly

on the request of the applicant as is evident by
endorsement at the bottom of the impugned order to the
Chairman, CBDT that Sh.Panna Lal, A.M. has desired
that his services may be placed at the disposal of the
Central Board of Direct Taxes and it has been decided
to revert him to the C.B.D.T. The applicant himself made
a request for repatriation and there is nothing to show
that he has been discriminated against, on the other hand it is more likely
that the applicant has been favoured by acceptance of his
request of repatriation to the C.B.D.T.

The ld.counsel for the applicant further argued
that   the letter dated 19-11-92 cannot be read in
isolation from all earlier correspondence. However,
the letter dated 19-11-91 is very emphatic and the applicant
has clearly stated that he had made requests for transfer
to Delhi and his letter had not caught attention even though
there was a vacancy caused by the retirement of Sh.Ram
Rattan, A.M. In the last para he has clearly stated that
it may be not only difficult but impossible for me to
work in the atmostphere where such sentiments prevail
at the highest level". The contention of the ld.counsel
is that this does not mean his resignation as it is not a
clearly explicit unambiguous and unconditional resignation.
The applicant has stated that vide his letter dated 18.6.91
he insisted upon joining the posting subject to condition
that either he shall be posted at Delhi or near Delhi
or he would be given time to join in January/Feb.,1992.
Even though the applicant was posted to Calcutta, he had
accepted the offer. This letter further goes to show that the
applicant wants to be posted to Delhi. This letter also
shows that the applicant had a certain disinclination to
work at any other place.The opinion formed in his mind
that his non-transfer to Delhi is because of some bias
is not at all justified. His request of non posting to
Delhi or near Delhi prompted him to make a written request

of for being relieved as Member ITAT.at the earliest. It can not,therefore be said that the applicant was under any mis-apprehension of his request not being accepted. In the appeal also prefered by the applicant he has stated that the letter dated 19-11-91 for being relieved was written under extraordinary circumstances of mental strain on not getting a sympathetic response from the President, I.T.A.T. In view of the fact it can not be said that the applicant did exercise proper restrant and in fact he posed a threat in his letter to coerce the Chairman, ITAT to succumb to his wish or relieve him. When he has been relieved he has no case to be again considered for retention as Accountant Member,ITAT. The impugned order is by-product of his own reaction for which he cannot have a grievance.

Ld.counsel for the applicant has also argued that the letter dated 12-11-91 be read as a whole. We have no doubt that the applicant's condition of appointment, lays down his serving at any place in India. The same has been accepted without demur. Lastly, the applicant was to discharge quasi-judicial functions as Member Accountant of I.T.A.T and cannot spontaneously act in a manner unworthy of the post.

We have carefully considered the whole matter and find that the present application has no prima-facie case, it is dismissed at the admission stage itself.

(J.P.SHARMA)   30.4.93
MEMBER(J)

(S.P.MUKERJI)
VICE CHAIRMAN(A)

Pronounced by me.

30.4.93