

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 2nd day of May, 1997

Original Application No. 116 of 1994

District : Dehradun

CORAM:-

Hon'ble Mr. T.L. Verma, J.M.

Hon'ble Mr. S. Dayal, A.M.

Constable Hais Ahmad (C.B.I.)

D-263, Nehru Colony, Dehradun.

(By Sri D.P. Singh, Advocate)

. Applicant

Versus

1. Union of India through its Secretary
Ministry of Home Affairs, Karmik Prashasnik,
Sudhar Vihar, New Delhi.
2. Superintendent of Police (C.B.I.),
H.Q. New Delhi, through Bharat Sarkar,
Central Bureau of Investigation, Block No. 3,
C.G.O. Complex, Lodi Road, New Delhi.
3. Superintendent of Police (C.B.I.)
5, Tej Bahadur Road, Dehradun
4. Superintendent of Police, Police Headquarters,
Karmik, Allahabad, Uttar Pradesh.

(By Sri Vikram Gulati, Advocate)

. Respondents

ORDER (Oral)

By Hon'ble Mr. T.L. Verma, J.M.

This application has been filed for quashing the order dated 14-10-1993 whereby the representation of the applicant has been rejected and the order dated 12-7-1993 repatriating the applicant to his parent department, and for issuing a direction to the respondents to regularise the services of the applicant as Constable in the C.B.I.

2. The applicant while working as constable in G.R.P. Moradabad was sent on deputation to C.B.I., Dehradun for a period of three years. The aforesaid period of deputation was further extended from 1-3-1986 to 1-3-1989. The further case of the applicant is that respondent no.3 wrote a letter to the Deputy Inspector General (Police), C.B.I. Lucknow for absorption of the applicant in C.B.I. Thereafter, the committee for absorption considered the case of the applicant and selected him for such absorption vide Annexure-4. The grievance of the applicant is that inspite of the applicant having been found fit for absorption, and other constables similarly placed having been finally absorbed, the respondents arbitrarily with malafide intention, declined to absorb him in the C.B.I. and repatriated him to the parent department by the impugned order dated 12-7-1993. Hence this application for the relief mentioned above.

3. The respondents have contested the claim of the applicant by filing a counter affidavit. In the counter affidavit filed on behalf of the respondents, it has been stated that the applicant cannot claim absorption in CBI as a matter of ~~fact~~ ^{right}. The further case of the respondents is that although the applicant was approved for absorption by the committee constituted for that purposes, he could not be absorbed because the parent department or the applicant did not consent for such absorption even after a lapse of three years. It has also been stated that the applicant has been repatriated to his parent department on administrative grounds.

4. We have heard learned counsel for both the parties and perused the pleadings on record.

5. The right of the ~~parent~~ department to ~~repatriate~~ ^{seek} the Government employee on deputation to his parent department cannot be denied. The Government servant on


deputation to a foreign department does not acquire any right to hold the said post so long as he is not absorbed in the said department. Similarly the right of the ~~parent~~ *lending* department to recall his employee in the interest of administration or to decline the request of the parent department to allow the said Government servant to be finally absorbed ~~can not be curtailed in any manner~~

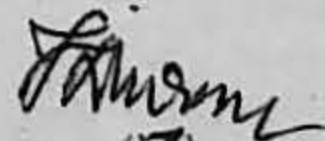
6. From the averments in the pleadings of the parties ~~in~~ ^{and} the various annexures attached thereto, it is absolutely clear that the services of the applicant have not been finally absorbed in the CBI, although he had been selected by the committee duly constituted for considering of such absorption. That being so, the applicant cannot be said to have acquired any legally enforceable right to continue in the CBI.

7. The averments made by the respondents in Para 4 of the counter affidavit that the parent department of the applicant did not convey its consent for absorption of the applicant in CBI even after a lapse of three years have been replied in Para 6 of the rejoinder affidavit. We have perused the reply given by the applicant and we find that the above specific averments of the respondents have not been effectively ~~denied~~ *denied*. It was also submitted that the period of deputation had expired on 31-1-1989 but the impugned order of repatriation has been passed on 12-7-1993 allowing the applicant to remain in the CBI beyond 31-1-1989 for a period of three years by implication, makes his ~~possession~~ *possession* absorption in the CBI ^{final}. The rules require a positive act or giving consent of the parent department for final absorption of the Government employee on deputation in the ~~said~~ *said* department. In absence of such an order, no presumption of final absorption of the applicant in the CBI can be drawn. The respondents have also detailed a number

or other ^{reason} ~~error~~ in Para 17 of the counter affidavit, for the decision of the respondents to repatriate the applicant, to the parent department. We do not propose to get into the merit or otherwise of the allegations made against the applicant, which, if proved, may amount to misconduct. Suffice ^{it} to say that the respondents were well within their right to repatriate the applicant to his parent department, if they were not satisfied with his performance. In Para 15 of the counter affidavit, it has also been very specifically averred that the applicant was repatriated to his parent department for administrative reasons and that the parent department of the applicant was requested to take departmental action against the applicant for his misconduct. The applicant has ^{not} said even a word in rebuttal of the above averments in his reply in the rejoinder affidavit. The obvious conclusion that would, therefore follow is that the respondents had requested the parent department of the applicant to initiate disciplinary action against the applicant for alleged misconduct while repatriating ^{him}. We are not aware whether such a disciplinary proceeding was initiated against the applicant or not and whether he was found guilty in the said disciplinary proceedings? Be that as it may be, we have no doubt that the respondents cannot be faulted with in repatriating the services of an employee with whose conduct they were not satisfied.

8. In view of the facts and circumstances stated above, we find no merit in this application and dismiss the same accordingly leaving the parties to bear their own costs.


Member (A)


Member (B)

Dupe/