

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 356/88

Transfer Application No:
XXXXXX

DATE OF DECISION 22.2.1994

Shri Parasram Singh Petitioner

Shri G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri P.R.Pai Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

1. ~~whether Reporters of local papers may be allowed to see the Judgement?~~
2. To be referred to the Reporter or not? M
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?~~ M


(M.S.DESHPANDE)
VICE CHAIRMAN

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 356/88

Shri Parasram Singh

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri G.S.Walia
Advocate
for the Applicant

Shri P.R.Pai
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 22.2.1994

(PER: M.S.Deshpande, Vice Chairman)

The challenge by this application is to reversion of the applicant to his parent cadre.

2. The applicant was working as a Chargeman and was transferred from Shop to the Production Control Organisation on 28.9.1987. He was retransferred on 5.3.1988 to his parent cadre. The applicant retired on 28.2.1991 while working in the parent cadre. The applicant's grievance is that his transfer to the Shop from the Production Control Organisation was arbitrary and malafide because of the letter dated 13.9.1984 by which the staffing pattern of PCO was streamlined. Under item (iii) of Para 2, the tenure of posting in PCO was to be 5 years which should be strictly adhered to and in any exceptional circumstances or for unavoidable reasons, staff is to be retained in the PCO beyond five years, maximum two extensions of six months each may be given after observing certain conditions and in item

(v) the tenure laid down in sub-item (iii) above would be enforced in respect of the existing staff of the PCO subject to certain conditions.

3. According to the respondents by the order of appointment dated 30.7.1987 (Ex. 'B') the applicant was one out of the four persons who came to be transferred. It was made clear that the arrangement was officiating arrangement and that the incumbents were to be advised that the said arrangement was made in the exigencies of service purely as a temporary measure and will not confer on them any prescriptive right for continued officiating in the grade or in the event of permanent/temporary vacancy occurring at a later date or continuity in the present grade. It was urged that ~~he~~ was also made clear that the incumbents were liable to be reverted at any time without prior notice or on the grounds of general unsuitability or ~~or~~ their working was reported upon adversely.

4. Shri Walia for the applicant urged that what has been mentioned in this letter was not referred to in the letter dated 13.9.1984. It must be noted that the scheme of staff taking was formulated on 13.9.1984 but the individual was to be appointed as per letter dated 30.7.1987. In the letter of appointment under the scheme made it clear that the appointment was to be precarious. It is obvious that the general provisions of the letter dated 13.9.1984 would not confer a right on the applicant to be continued in the PCO.

5. The second contention was that the exercise of the power of repatriation was exercised in bad faith because the applicant had entered into litigation in respect of Railway quarter which had been allotted to him and it was

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because he had approached the Tribunal against his eviction from the quarter when that quarter was to be allotted to an officer, though the quarter was not meant for allotment to that officer, that the action of repatriation came to be taken. The respondents have denied that the power was exercised in a malafide manner because of this position. It is true that the applicant stood to lose an allowance of Rs.225/-p.m. on account of his reversion to parent cadre. But if the authority had the power to revert the applicant by virtue of letter dated 30.7.1987 and if there was no right ^{of} ~~because~~ the applicant to continue in that post, he will not be entitled to any relief. It is difficult to believe that ^{because} the applicant insisted upon continuing in the quarter, the action came to be taken. It is, therefore, clear that there is no merit in the application, it is dismissed.



(M.S.DESHPANDE)
VICE CHAIRMAN

mrj: