

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 927/95/199

Date of Decision: 25-7-96

K.P.Girish

Petitioner/s

Applicant in person

Advocate for the
Petitioner/s

V/s.

Dy. Director/Principal, RVTI, Mumbai

Respondent/s

Mr. V. S. Masurkar

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R. Kolhatkar, Member(A)

Hon'ble Shri

- (1) To be referred to the Reporter or not? X
- (2) Whether it needs to be circulated to other Benches of the Tribunal? X

M.R. Kolhatkar
(M.R. KOLHATKAR)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. NO. 927/95

Pronounced this, the 25th day of July 1996

Coram: HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

K.P.GIRISH,
Training Officer,
R.V.T.I.(W),
Govt. of India,
M/O. Labour, V.S.Marg,
Dadar,
Mumbai - 400 028.

.. Applicant

(Applicant in person)

-versus-

T.Prasad,
Deputy Director/Principal,
R.V.T.I., Govt. of India,
M/o. Labour, V.S.Marg,
Dadar, Mumbai - 400 028.

.. Respondent

(By counsel Shri V.S.Masurkar)

ORDER

(Per M.R.Kolhatkar, Member(A))

The applicant who was working as Training Officer, Secretarial Practice in the Regional Vocational Training Institute(RVTI) for Women(W), Trivandrum was transferred by order dt. 29-4-1992 to RVTI(W) Bombay vide Annexure II. The Principal of the Trivandrum institute issued an office order relieving the applicant on 4-5-92 and directing him to hand over the complete charge to Kum.P.A.Vijayakumari, Vocational Instructor, vide page 11. The applicant contends that he received the relieving order at 16.30hrs. on 4-5-92 i.e. at the closing hours of the office ^{and} so he locked and sealed the almirah under his charge and reported the matter to the Director of Apprenticeship Training ^{duty at} New Delhi and reported for Bombay. In his absence the Principal at Trivandrum broke open the lock on 10-7-92 and sent a list of shortage/missing items

...2/-

amounting to Rs.4,300/- and fixed the responsibility on the applicant. The applicant is aggrieved by order dt. 27-7-1995 issued by the Dy. Director of Training, R.V.T.I.(W), Bombay, where the applicant is working, to make recovery of Rs.4,293/- being the cost of missing items (including pocket calculator, electric drilling machine, drill bits and library books). The grievance of the applicant is that the recovery amounts to more than 80% of his take home pay amounting to Rs.5,000/- and is, therefore, illegal because there is a rule that any deduction including court attachment cannot exceed 1/3rd of the salary. This Tribunal had granted interim relief in following terms:

"So far as Interim Relief is concerned, there is substance in what the applicant has contended viz. that this recovery alongwith statutory deductions left him with very little amount to discharge his family responsibilities. Without going into the provisions of G.P.C., we direct that deduction from the monthly salary of the applicant should be restricted to 1/3rd of the total amount; in other words the recovery should be in three instalments. The respondents are directed to refund 2/3rd of the single instalment already recovered within 8 (eight) days of communication of this order and effect the recovery of the same in subsequent two months."

2. The respondents have filed their written statement and applicant has filed a rejoinder. The applicant in person and the counsel for the respondents were heard.

3. The main contention of the applicant is that any training materials in his possession ought to have been arranged to be taken over by his successor before the applicant actually handed over the charge.

Since the authorities at Trivandrum could not arrange

this during office hours, the applicant had no alternative

but to hand over the charge of the post without handing over the training material in his charge and sealed the same in his almirah. He had represented in the matter to head of the office at Delhi that the authorities at Trivandrum ought not have opened the seal and broken the cupboard in his absence. In his rejoinder applicant has taken the stand that as a Training Officer in the discipline of Secretarial Practice he ~~has~~ does not need any tools beyond black board and chalk and that the electrical driller, drill bits or set of spanners etc. were ~~not~~ obtained by him under instruction of the then Principal Shri Mani and had handed over the above items along with two pocket calculators through loan slip in the form of acknowledgment which was kept safely in the sealed almirah. According to him the Principal at Trivandrum has tampered with and destroyed the loan slip/acknowledgment. The further contention of the applicant at the time of hearing was that one ^{Mr. Velan} ~~(Zs)~~ representative of Mr. Mani had handed over the store items to him on 6-6-96 and they are under his custody and he wanted the Principal at Trivandrum to take away these items. According to him Shri Mani was a corrupt officer and a CBI case is pending against him.

3. Respondents have challenged the O.A. firstly on the point of non joinder of necessary parties viz. R.V.T.I., Trivandrum. The reply has been filed by the respondents on behalf of Union of India Ministry of Labour, Principal R.V.T.I. Bombay. The Regional Vocational Training Institutes work under Directorate General of Employment & Training under Ministry of Labour, New Delhi and they can obtain information relating to previous office of the applicant by correspondence. The plea of non joinder of party is a hyper technical plea and therefore is rejected

4. The respondents next contendⁿ that the applicant's order of transfer was served at 9.40AM on 4-5-92 as soon as the applicant reached the Institute campus and there is no substance in the contention that the order was received late. It was only because the applicant failed to hand over the charge and stores under his charge^{that} the authorities were required to open the sealed almirah/lockers in the presence of five witnesses. When it was opened the items shown in shortage were not found ^{there.} ~~in.~~ The only items which were found viz. Plain paper photocopier with stabilizer etc. are mentioned at Ex.R-3 to the written statement. In fact, ^{the} applicant was asked to make payment of missing items on 10-7-92 and was reminded on 11-6-1993. Thereafter, there was an audit note and the Principal at Bombay Institute was asked to make recovery in lumpsum. Regarding the recovery being in one instalment it is contended that the applicant had not given any reply to the memos since 1992 and he had sufficient time. In any case respondents have stated that they have complied with the interim order of the Tribunal.

5. The story of the applicant that store items were in possession of Shri Mani, Ex-Principal RVTI Trivandrum who had destroyed the acknowledgment slip appears to be an afterthought. No such averments were made in the original application. The applicant appears to be trying to connect newspaper reports regarding GBI case against Shri Mani with his own case. I, therefore, do not accept ~~this~~ justification for not returning the store items earlier. There is no doubt that the applicant ought to have handed over charge of the training materials in his possession ^{at Trivandrum} before taking over charge at Bombay.

The contention that the matter was pending with the Head Office also is not renewable because these matters are primarily for the local Principal to settle. The prayer of the applicant for quashing the order dt. 27-7-95 as being unjustified and illegal has no merit. The recovery was justified though instalments could have been given. Whatever relief was possible in the circumstance was already given through interim order. Other prayers made by the applicant namely that the respondents should be directed not to misuse the administrative power and the respondent should be directed to fully co-operate with the applicant to settle the issue within two months etc. do not deserve any consideration.

6. I, therefore, find that the O.A. is without any merit. Therefore, the O.A. is dismissed with no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member (A)

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