IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYD

O.A.NO.1369 of 1995.

Between Dated: 18.3.1996.

M.A.Vidhyatharan ... Applicant

And

1. Regional Director, Directorate of Purchase & Stores, Hyderabad Regional Purchase & Stores Unit, Nuclear Fuel Complex, ECIL PO, Hyderabad.

2. The Administrative Officer, Directorate of Purchase & Stores, Department of Atomic Energy, Vickram Sarabai Bhavan, Bombay.

... Respondents

Counsel for the Applicant : Sri. J. Ashwani kumar

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CGSC.

CORAM:

Hon'ble Mr. R.Rangarajan, Administrative Member

Contd:...2/-

(71)

2

OA No.1369/95. Date: 18-3-1996.

J U D G M E N T

X as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

The applicant in this OA when he was working as a Junior Store Keeper in AMD at Nagpur was transferred to HRPSU, Hyderabad on promotion as Store-keeper by Memorandum No.DPS/2/1(55)/91-Admn/4823 dt. 26.3.1992. R-1 who is the Regional Director HRPSU Units controls 4 Stores Units under him viz. (i) NFC, Moulali, (ii) AMD(Lab.) near NFC, (iii) AMD (Indent Section) Begumpet, and (iv) Divisional Stores Unit, Begumpet. The applicant on his reporting to R-1 was posted to HRPSU, NFC, Moulali and assumed that office on 22-4-1992. On 21-4-1993 he completed the probation as Store-keeper. He was issued with an office orderNo.DPS/HRU/3A/2135 dt. 17.11.1993 transferring him to AMD Lab Stores, Hyderabad with immediate effect and he was instructed to report to Asst. Stores Officer, AMD Lab Stores for further allocation of work. He was relieved of his duties from HRPSU, NFC on 17.11.1993 vide office order No.DPS/HRU/3A/(1)/2136 dt. 17.11.1993. The applicant submitted a representation dt. 16.5.1994, the purport of which is not very clear. Probably this was submitted against transferring him to AMD Lab, Hyderabad. While working at HRPSU, NFC, Moulali he was allotted a quarter.

2. Aggrieved by the transfer to AMD Lab., Hyderabad by the office order dt. 17.11.1993 he filed another representation to R-1 ~~by~~ dated 25.7.1994. As no reply was given, he filed OA 202/95 impugning the transfer order to

...3/-

AMD Stores, Hyderabad from HRPSU, NFC at Hyderabad. That OA was disposed of by this Tribunal by its order dt. 30.3.1995 wherein R-1 was directed to dispose of the representation of the applicant dt.25.7.94. That representation was disposed of by the impugned order dt. 21.6.1995. It is stated in the impugned order that the transfer of the applicant was done for administrative reasons only and had no bearing of his belonging to SC community. This OA is filed assailing the proceedings dt. 21.6.1995 passed by R-1 and for a further direction to R-1 to restore him back in his place of posting i.e. NFC, HRPSU, Hyderabad and for a consequential direction to the respondents to allow the applicant to avail the benefits of HRPSU in full i.e. Production incentive, Medical and Housing, School facilities to children pursuant to the memorandums of R-2 vide proceedings DPS:2:1:(55):Adm:4823: dt. 26.3.1992 and DPS:2:1:(29):90: Adm:5770 dt. April/May, 1, 1992.

3. Notice before admission was issued vide order of this Tribunal dt. 20.11.1995 wherein the respondents were directed not to take any steps for evicting the applicant from the quarter of HRPSU,, NFC in which he is now residing until further order. The OA was admitted on 6.2.1996.

4. The main contention of the applicant in this OA is that when he was in AMD Stores keeping his lien in NFC-HRPSU, Hyderabad he is entitled for all the benefits available to him at NFC-HRPSU, Hyderabad. As he is in the quarter provided by HRPSU, NFC, Hyderabad he should not be asked to vacate this quarter eventhough he was transferred to AMD Lab., Hyderabad.

...4/-

5. The second contention of the applicant is that he was sent to AMD, Hyderabad retaining his lien at HRPSU, NFC, Hyderabad as can be seen from the office order dt. 17.11.1993 wherein it is stated that he was posted to AMD Lab. Stores for further allocation of works. Hence, he is justified in claiming all the privilages applicable to him as if he has a lien at HRPSU, NFC, Hyderabad.

6. One Sri G.B.G.Rao transferred from Mysore was posted to NFC, HRPSU, Hyderabad and to favour him, the applicant was transferred to AMD Lab., Hyderabad. Even when Sri G.B.G.Rao had expired his place is sought to be filled from one of his juniors from AMD Lab., Hyderabad. Hence, the applicant is discriminated against as he belongs to reserved community.

7. The respondents in their counter had stated that there was an incident of theft which was reported on 12.11.1993. The material involved in this theft is in Receipts Section of Stores Unit, NFC, HRPSU and the applicant herein was the Store Keeper dealing with this section. A case of attempted theft was filed by NFC with the Police in this respect. The applicant was transferred to AMD Lab. Stores from HRPSU, NFC, which is situated just outside the fencing of NFC by order dt. 17.11.1993 by R-1 based on the powers delegated to him in order to prevent any tampering of evidence and to conduct smooth inquiry in the above theft case involving the materials under the control of the applicant.

...5/-

8. It is further stated by the respondents that the applicant was allotted Government residence in the housing colony of NFC while he was working at HRPSU, NFC. Since he was transferred from HRPSU, NFC to HRPSU, AMD he ceased to avail the benefits of the facilities available to the employees of NFC. Hence, he was asked to surrender the Govt. accommodation allotted to him in the DAE Housing colony of NFC and hence asking him to vacate the quarter is in order. The applicant will get all the necessary benefits applicable to the unit of HRPSU in which he is presently working. He cannot demand the benefits which are available to him in the earlier units where he worked when he is transferred to the otherm units.

9. The first contention of the applicant is that he is discriminated against as he belongs to SC community. But, this contention does not appear to be in order. He was transferred to the AMD Lab., Hyderabad which is the next door unit for conducting the enquiry in regard to the theft case which occurred on 12.11.1993. The applicant also did not substantiate this statement convincingly. Hence, this contention that he was discriminated as belongs to SC community may not be sustainable. But, in the impugned order dt. 21.6.1995 there is no such mention regarding the theft of the material under the custody of the applicant and hence he was transferred to the AMD Lab for conducting the amooth enquiry in the above theft case. It is not clear

...6/-

why this incident is not mentioned in the impugned order. If the transfer had taken place due to the theft incident mentioned above the proper course should be to initiate the disciplinary proceedings if the employee is suspected of some knowledge about the theft case. The transfer of the applicant to the other unit, though indicated for administrative grounds, should only be construed as a cloak for transferring him for his lapses. In view of the above the transfer of the applicant on this count may not be in order. But now that the applicant is transferred and he is also assumed charge as Store-keeper in AMD Lab., Hyderabad there is no point in transferring him back to HRPSU, Hyderabad.

10. The contention of the applicant that he should be given all the benefits that were applicable to him when he was working as Store-Keeper, HRPSU, Hyderabad eventhough he has been transferred to AMD Lab. Stores, Hyderabad cannot also be accepted if he is not entitled for such facilities in the units in which he is posted.

11. But when he submits that he should be allowed to continue in the quarter which was allotted to him while he was working as Store-keeper, HRPSU, Hyderabad needs consideration in the present circumstances of the case.

...7/-

12. The applicant was transferred from the post of Store-keeper, HRPSU, NFC, Hyderabad within a period of one year and 7 months of his posting in that post. One Sri Rao who came on transfer from Mysore was posted as Store-keeper vice the applicant and thereby the applicant had to be shifted out of quarter allotted to him in HRPSU-NFC, Hyderabad. When Sri Rao died one of the junior to the applicant who was working in AMD Stores, Hyderabad was promoted as Store-keeper and was posted as Store-keeper in NFC, HRPSU, Hyderabad. Thus, a junior got the quarter when the applicant was to search for a quarter as he is not posted as Store-keeper in HRPSU, NFC, Hyderabad. If an employee posted to NFC, HRPSU is shifted even before he completes the term to post somebody else to get a quarter, such a posting will lead to favouritism. Hence R-1 has to think some ways and means to ensure that such undue considerations are avoided but at the same time, the transfer is effected from HRPSU, NFC on the absis of certain principles. One of the solution may be to stipulate ~~to stipulate~~ ~~continuous~~ tenure posting in HFC, HRPSU, Hyderabad so that an employee posted there will not be disturbed to favour somebody else to get a quarter. But, the above should not be considered as a prohibition of transfer of the employees on the basis of certain rules and regulations and other incidents. But, if one is transferred from HRPSU, NFC, Hyderabad within a short period, the same, ~~has to be ensured that does not~~ to show ~~any~~ favouritism to others but on the basis of certain developments. The underlying principle is

..8/-

that when an employee is posted to HRPSU, NFC and provided with a quarter should not be disturbed to favour somebody else by the administration and suitable method has to be devised to avoid such favouritism being shown to some privileged employee. It is onee again emphasised thatthe above observation would not mean that transfer of an employee should be on the basis of certain rules, regulations and other developments and does not mean bar for transfer from NFC, HRPSU/Hyd.

13. In the present case the only benefit which employee enjoyed at NFC, HRPSU, Hyderabad which needs to be considered is in regard to allotment of quarter to him when he was an employee in HRPSU, NFC, Hyd. As he was transferred from NFC, HRPSU within a short period of one year 7 months on the basis of some incident of theft, evicting him from the quarter at this juncture is not justifiable until theft case is finally disposed of. But retention of this quarter under peculiar circumstances of the case should not be treated as a precedence to give such benefit to some other employees who are transferred out of HRPSU, NFC, Hyderabad in nofmal course.

14. The learned Standing Counsel submitted that even if the applicant is transferred out of Hyderabad he may ask for some benefits which he is enjoying in Hyder bad. The above apprehension of the learned Standing Counsel is not very clear and a conclusion can be drawn that apprehension of the learned Standing Counsel is only imaginary and there is no case to consider this contention. As and when such request from the employee as pointed by the learned Standing Counsel arises, the same may be considered on the basis of that case.

15. In the result, the following direction is given:-

The respondents should not evict the applicant from the quarter presently occupied by him till the finalisation of the incident of theft case and only normal rent should be levied from him till then. If the rules do not permit the applicant to retain the quarter of NFC, HRPSU, Hyderabad when he is working in AMD Stores Lab., Hyderabad, the respondents are free to transfer him back to NFC, HRPSU, Hyderabad notwithstanding the observation made by me in para-8 supra.

16. The OA is ordered accordingly. No costs.

(R.Rangarajan)
Member(Admn.)

Dated 18th March, 1996.
Dictated in open court.

Dy. Registrar (J) 28/3/96

sd/grh.

contd - 10/-

D/1814/96 OA-1369/95

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI ~~A.B.GORTHI~~ R. Ranga Rajan : MEMBER(A)

~~HON'BLE SHRI~~

DATED: 18/3/96

ORDER/JUDGMENT

~~M.A.NO./R.A./C.A.No.~~

IN

O.A.NO. 1369/95

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED REJECTED

NO ORDER AS TO COSTS

* * *

No Spare Copy