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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.644/97

dt. 6-8-97

Between

S.N. Sharma

: Applicant

and

1. Union of India, rep. by
Its Secretary to Govt.
Min. of Health & Family Welfare
Nirman Bhavan
New Delhi 110011

2. Director General of Health Services
Nirman Bhavan
New Delhi 110001

3. Director
Central Govt. Health Scheme
Directorate General of Health Services
Nirman Bhavan
New Delhi 110011

4. Dy. Director (Admn.)
CGHS, Dte. Genl. of Health Services
Nirman Bhavan
New Delhi 110011

5. Additional Director
CGHS, Kendriya Swasthya Bhavan
Prakashnagar, Begumpet
Hyderabad 500016

: Respondents

Counsel for the applicant

: Y. Suryanarayana
Advocate

Counsel for the respondents

: V. Bhimanna
Addl. CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.) *✓*

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Judgement

Oral order (per Hon. Mr. H. Rajendra Prasad, Member (Admn))

Heard Sri Y. Suryanarayana for the applicant and Sri V. Bhimanna for the respondents.

1. A counter-affidavit has been filed by Respondent-3 on behalf of the other respondents. The counter explains the circumstances leading to the issuance of the impugned order. It does not, however, contain any answer to any of the contentions raised by the applicant in his OA. In this connection, the following extract from the office note and orders recorded in this case on 13-5-1997 is reproduced as below :

"The applicant questions the impugned order relocating him from CGHS Depot, Hyderabad, to NICD, New Delhi, on the grounds that -

i) No movement known as 'shifting' exists in the normal official parlance or procedures, whereas the order specifically mentions that applicant has been 'shifted' from his present post;

ii) The applicant is regularly posted and functions as Asstt. Depot manager, CGHS, Hyderabad, whereas it would seem that he is sought to be 'shifted' to a post in lower rank i.e. Stores Officer at NICD;

iii) The indication that he shall continue to draw his salary and allowances from CGHS Hyderabad is also unusual since as per the impugned order, he would be working under a different Directorate, but will draw pay and allowances from an office under his present Directorate;

iv) Shri Y. Suryanarayana asserts that impugned order is in several ways improper."

2. The reply statement filed by the respondents does not make any attempt to answer any of the questions or meet the points raised.

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3. Mr. V. Bhimanna once again explains the reasons which prompted the respondents to issue the order. It is duly noted that the shifting of the applicant was a sequel to an inquiry conducted into certain irregularities which came to notice in the functioning of the Depot, of which the applicant was incharge. These details are not matters of immediate concern as far as the present OA is concerned. What is relevant is whether or not the impugned order stands the test of Rules or Law.

4. A conclusion is inescapable ^{that} the said order fails on both counts for the following reasons :

i) The post of Assistant Depot Manager, CGHS, is governed by the Central Government Health Scheme (Assistant Depot Manager) Recruitment Rules, 1990. According to the Schedule annexed to the said rules there are only two posts of ADM - one at Bombay and ^{another} at Hyderabad. If there has at all been a variation of this number, the same has not been made known. The post is classified as General Central Service Group B Gazetted (non-Ministerial). The post of Stores Officer in the National Institute of Communicable diseases is covered by National Malaria Eradication Programme (Deputy Assistant Director (Stores) and National Instt. of Communicable Diseases (Stores Officer) Recruitment Rules, 1977. According to the Schedule annexed to the said rules there are only two posts of this kind in the country and this post is also classified as General Central Service Group-B Gazetted. It may thus be seen that the posts are under the control of two different Directorates and governed by two separate sets of rules. It has not been shown by the respondents that the posts are inter-changeable even if the duties attached to them are similar.

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ii) The impugned order specifically states that the applicant was being 'shifted' from Assistant Depot Manager, CGHS, Hyderabad, to NICD, New Delhi. It does not spell out to which precise post in NICD is the applicant being so 'shifted'. or whether the post of an Assistant Depot Manager exists in the said organisation. It is not also immediately apparent whether the two posts are absolutely identical or equal in terms of powers, responsibilities and scales of pay.

iii) The expression 'shifted' is not understood. The object may have been to remove the presence of the applicant from his ~~current~~ appointment in the interests of the Depot at Hyderabad, or, may be to prevent his interreference in the on-going enquiries into the irregularities in the Depott. These presumed reasons, if true, are understandable but not so the action taken. The manner of his shifting does not seem to be covered by any normal administrative parlance or procedure. If indeed the aim was as surmised above, the same could have been secured in any one of the other acceptable ways or established procedures. The impugned order is very cryptic in this regard.

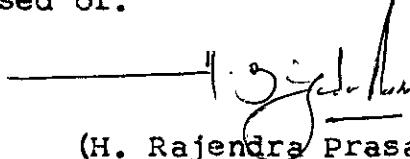
5. Under the circumstances it has to be held that the impugned order does not meet the requirements of either departmental rules or principles of natural justice inasmuch as the contemplated action was initiated without any warning or notice or an opportunity to the applicant to put forth his point of view before the said order was issued.

6. In the light of what has been discussed above, the impugned order is hereby set aside, leaving the respondents

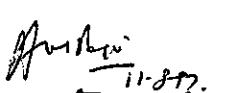
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free to initiate such action as may be necessary in the overall interests of service in consonance with rules, normal procedures and practice.

7. Thus the OA is disposed of.


(H. Rajendra Prasad)
Member (Admn.)

Dated : August 6, 97
Dictated in Open Court


Deputy Registrar (G) cc

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O.A.644/97.

To

1. The Secretary to Govt. Union of India,
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi-11.
2. The Director General of Health Services,
Nirman Bhavan, New Delhi-1.
3. The Director, Central Govt. Health Scheme
Directorate General of Health Services,
Nirman Bhavan, New Delhi-11.
4. The Deputy Director(Admn.)
CGHS, Dte.Genl.of Health Services,
Nirman Bhavan, New Delhi-11.
5. The Additional Director, CGHS, Kendriya Swasthya Bhavan,
Prakashnagar, Begumpet, Hyderabad-56.
6. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
7. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
8. One copy to HHRP.M.(A) CAT.Hyd.
9. One copy to D.R.(A) CAT.Hyd.
10. One spare copy.

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~~10/10/97~~
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE
VICE-CHAIRMAN
and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 6 - 8 - 1997

~~ORDER~~ JUDGMENT

M.A./R.A./C.A.No.

in
C.A.No. 644/97

T.A.No. (w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

