

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A. No.895/99.

DATE OF ORDER : 25 -8-1999.

BETWEEN :

N.R. Pal, s/o Late M.C.Pal,
Senior Lecturer,
Military College of EME,
PO. Trimulgherry,
Secunderabad-15.

.. Applicant

(By Advocate Mr. K.Sudhakar Reddy)

A N D

1. Union of India, Ministry of Defence, Sena Bhavan, New Delhi-110 011.
2. The Director General, Electrical and Mechanical Engineering, Army HQs., New Delhi - 110 011.
3. The Commandant, Military College of EME, P.O. Trimulgherry, Secunderabad--15.

.. Respondents

(By Sr.Standing Counsel Mr.B.N.Sharma)

CORAM :

THE HONOURABLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN.

O R D E R.

Justice D.H.Nasir, VC :

1. The transfer order issued by the Government of India in the Ministry of Defence, bearing No.B/03428/86-NRP/EME/Civ-1/112/CC-D (APTTS) dated 27th May,1999 transferring the applicant to the College of Military Engineering as Lecturer (Metallurgy) on immediate basis. is under challenge in this O.A. It is clarified in the order that the post was being transferred to Pune as the work already stood transferred to College of Military Engineering, Pune and there would be no loss of past service for seniority in the new

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organisation for the applicant. The legality of the said order of transfer is challenged mainly on the ground that the applicant was sought to be transferred at the fag end of his service, i.e. within three years prior to his retirement.

2. Several factors, however, leading to the eventual transfer of the applicant to Pune which were highlighted by the learned counsel for the applicant Mr. K.Sudhakar Reddy deserve a careful consideration. The applicant was appointed as Lecturer in Metallurgy in the Military College of Electronics and Mechanical Engineering (MCEME), Secunderabad on 29.11.1979 on being selected by the Union Public Serice Commission, New Delhi. The minimum qualifications prescribed for the post were as under:

- i) A 2nd Class Bachelor's Degree in Metallurgy.
- ii) Should be capable of imparting training in Metallurgy to Degree Classes; and
- iii) Assisting the administration in jobs/duties connected with training.

3. Further acording to the applicant, he came to know on joining the institution that the Metallurgy subject was not included in the academic schedules of the institution and the applicant was forced to teach subjects outside the branch of specialisation namely, Material Science, Production Engineering, Mechanical Instrumentation etc. to Degree Engineering Classes and OAME Clases. The applicant submitted his grievances before the concerned authorities verbally and in writing

but the same did not evoke any response. The applicant also alleges that he was wrongly implicated in a disciplinary action by the concerned authorities with a view to punishing him on false allegations of using abusive and derogatory language in his representations ignoring the facts and circumstances in which the so called superiors were spoiling his ACRs every year.

4. It is further pointed out by the learned counsel Mr. Sudhakar Reddy that the applicant made a suggestion to the Dean of Faculty vide his letter dated 15.4.1982 for adjusting him against the post of Course Control Officer, F.EME instead of forcing him to teach alien subjects. It is further urged on behalf of the applicant that the authorities in MCEME would have done a laudable work had they accepted the applicant's suggestion instead of forcing him to teach alien subjects, so that the issue of his wrong placement would have been settled and wastage of public money would have been saved; but good sense did not prevail.

5. It would not be in fitness of things for us to comment on the nature of grievance expressed as above by the applicant. But we cannot resist from observing that it was not in good stead for the respondents to cause expert talent in the stream of Metallurgy to be wasted by subjecting him to teach subjects which were not within the ambit of the expertise possessed by him. Not only that it causes unnecessary drain on the public exchequer.

6. The applicant had to take recourse to taking proceedings in the Service Tribunal for his service having been misutilised. As many as 10 proceedings had to be initiated by the applicant before this Tribunal which

endeavour on the part of the applicant was ridiculed by the respondents by observing that the applicant was habituated to approach the Tribunal on some pretext or the other. In our opinion, this is not a welcome approach to the problem by the respondents. The respondents should have been more concerned with utilising the services of the applicant in a productive manner rather than condemning the act of initiating proceedings in the Tribunal by the applicant for enforcing his legal right because his expertise in metallurgy was lying in lurch.

7. It is also pertinent to note that a representation dated 20th August, 1986 was addressed to the Defence Minister, Government of India, New Delhi by the applicant bringing to the above facts to the knowledge of the Ministry. In the said representation, the applicant pointed out that Syllabi for Degree Engineering and other advanced courses in MCEME did not envisage teaching of any Metallurgical subjects but it did envisage teaching of Material Science for about 140 periods(each of 40 minute duration) per year and Material Science being related to Metallurgy, he started teaching the subject in Degree and OAME courses without much difficulty. He further states in his representation that Metallurgy used to be taught in MCEME earlier when action was initiated to fill up the post. But by the time the applicant joined MCEME as Lecturer in Metallurgy, the syllabus was revised and it was decided that Metallurgy would be taught only in College of Military Engineering (CME), Pune and that with the decision to teach Metallurgy at CME, the post of Lecturer in Metallurgy should have been transferred to CME, Pune, but it was not so done causing

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immense embarrassment to the applicant. He, therefore, urged the Defence Minister that necessary arrangement may be made to transfer him to CME, Pune or to a place where his Degree and knowledge of Metallurgy could be exploited in a better way. However, according to the learned counsel for the applicant, the applicant's appeal fell on deaf ears.

8. Further, according to the applicant, on a Memorandum submitted to His Excellency the President of India dated 27.11.1997 received a positive response and a communication was received by the applicant from Under Secretary to Government of India, Ministry of Defence, by order of and in the name of the President, after considering various representations made by the applicant from time to time, as follows :

" NOW THEREFORE, the President, in exercise of the powers conferred upon him under Rule 29 of the CCS(CC&A) Rules, 1965, hereby accepts the said Revision Petition submitted by Sri N.R.Pal, Lecturer, MCEME by way of reducing the penalty already awarded to him, to reduction of one stage for one year without having any postponement of future increments and directs EME Authorities not to detail Shri NR Pal, Lecturer, MCEME to teach the subjects other than Metallurgy, since he has been recruited as Lecturer, Metallurgy."

9. It is evident from the above communication which was produced before the Tribunal at the time when the matter was being argued before this Bench that the revision petition submitted by the applicant under Rule 29 of the CCS(CCA) Rules, 1965 was considered and the penalty already awarded to the applicant to reduction of one stage for one year without having any postponement of future increments and directed the EME Authorities not to detail the applicant to teach the subjects other than

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Metallurgy since he has been recruited as Lecturer, Metallurgy.

10. As regards the language used by the applicant, it is observed in the aforesaid decision in the revision petition that the genuine grievance and circumstance under which Sri N.R.Paul used such language could be understood but the applicant should have exercised restraint in using the language while making representations.

11. True, with the above facts in view, the balance appears to be tilting in favour of the applicant., but having regard to the fact that by order dated 27.11.1992 the authorities have been specifically directed not to detail the applicant to teach the subjects other than Metallurgy, the authorities would be incapacitated from respecting the direction given by the President of India, which situation should not be allowed to emerge by any direction of the Tribunal. The order of the President continues to be in force. It would, therefore, not be legal and proper for us to give any directions which may produce nugatory effect on any part of the President's order.

12. The very same question when it fell for consideration of a Bench of this Tribunal in OA No.602/96, the Bench in its order dated 17.9.1998 took the following view.

"3. When the OA is taken up for adjudication, the applicant produced the order of Government of India, Ministry of Defence dt.27.11.97, which is taken on record. As a sequel to Disciplinary Proceedings under Rule 14 or CCS(CC&A) Rules,1965, 1965. Ministry of Defence vide Order No.5(5)/89/D(Lab) dt.24.5.93 awarded penalty of "reductionn in pay by two stages for two years

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without having any postponement of ture increments" on the applicant. Against that the applicant filed an appeal which was disposed of on 26.5.95. On the directions of this Tribunal in OA 1489/94 applicant preferred further representation dt.22.9.97 who has considered the petition of the applicant in the light of facts and circumstances of the case and opined as follows :

(a) that it is agreed that he has been wrongly recruited in MCEME, since Meteallurgy, as a subject, is not included in academic curricula of the institution.

In view of the above opinion of the President of India, it is for the authorities to decide his posting as Lecturer, Metallurgy in accordance with the rules and necessity to retain him in that post in MCEME, Secunderabad. It is not necessary for this Bench to further look into the matter. . ."

13. We therefore do not find any cause to interfere with the impugned order dated 27.5.1999. Hence the O.A. is dismissed. No costs.

DH
(D. H. NASIR)
VICE-CHAIRMAN.

DATED THE 25th DAY OF AUGUST, 1999.

DJ/

15/8/99
Recd
1ST AND 2ND COURT

COPY TO:-

1. HDHND
2. HRRN M (A)
3. HBSJP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD;

THE HON'BLE MR. JUSTICE D.H. NASIR

VICE - CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN:

MEMBER (ADMN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR

MEMBER (JUDL)

ORDER DATE: 25/8/99

MA/RA/CP-ALO

IN

DA. NO. 895/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

O.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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