

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R .

M.P. No. 447/93

Date of decision: 17.11.93

in

(RP 72/93)

(OA No. 25/93)

MAHAVEER PRASAD

: Applicant/Non-Petitioner.

VERSUS

UNION OF INDIA & ORS ,

: Respondents/Petitioners

Mr. K.L. Thawani

: Counsel for Non-Petitioner

Mr. U.D. Sharma

: Counsel for Petitioners.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:


Heard the learned counsel for the parties.

2. The sentence "In the light of the decision, relied upon even by Shri Thawani, the counsel for the applicant, the applicant is not entitled to any relief" occurring in para 2 of the order dated 7.7.1993 in OA No. 25/93 shall be omitted.

3. As far as the second objection relating to Annexures A-1 and A-3 is concerned, the post was abolished vide Annexure A-1 and directions were given that the incumbents working on these posts will be absorbed in the present available vacant E.D. posts in Fatehpur Sub Division. Thus, the direction relating to absorption at Fatehpur Sub Division is bad as the post of Chowkidar is not transferable and a person cannot be asked to go to any other place against his wishes. In the case of abolition of the post, the option will have to be given to the person concerned whether he is willing to be absorbed outside the present place of his working or his services should be terminated according to the rules. As far as the question of abolition of the post is concerned, this court has not passed any order and does not

want to interfere in the matter of abolition. However, the subsequent part of the order that the incumbents working on these posts will be absorbed in present available vacant E.D. posts in Fatehpur Sub Division is bad in law to this extent that he could not be compelled to go to Fatehpur Sub Division. In such circumstances, the respondents have the remedy to retrench the applicant if he is not willing to go on E.D. posts and for this reason also, the appointment made vide Annexure A-3 is bad in law. If the applicant is not willing to join at the place of his new posting, then his services can be retrenched after payment of compensation and the applicant will have no right to make any grievance against that order.

4. The M.P. is allowed and the Review Petition is disposed of accordingly.


(O.P. SHARMA)
Administrative Member

(D.L. MEHTA)
Vice-Chairman