

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.526 of 2014
Cuttack this the 19th day of February, 2018

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Sudarsan Khuntia, aged about 63 years, S/o. late Lingaraj Khuntia, Retired L.D.C. Regional Office, Directorate of Field Publicity, Bhubaneswar – at present residing at Khuntia Sahi, Kapileswar, Old Town, Bhubaneswar-751 001, Odisha

...Applicant

By the Advocate(s)-M/s.S.P.Mohanty
P.Lenka
M.Barik

-VERSUS-

Union of India represented through:

1. The Secretary to Govt. Of India, Ministry of Information & Broadcasting, Shastri Bhawan 'A' Wing, Dr.Rajendra Prasad Road, New Delhi-110 001
2. Director General, Directorate of Field Publicity, Ministry of Information & Broadcasting, Govt. of India, East Block-IV, Level-III, R.K.Puram, New Delhi-110 066
3. Shri D.Chakrabarti, Addl. Director General, Ministry of Information & Broadcasting, Govt. of India, P-25, Gajapati Nagar, PO-Sainik School, Bhubaneswar-753 005, Odisha
4. Sri Susanta Kumar Parida, Directorate of Field Publicity, Regional Office, Ministry of Information & Broadcasting, Govt. of India, 2nd Floor, Kendriya Bhawan, Aliganj, Lucknow, Uttar Pradesh, PIN-226 024

...Respondents

By the Advocate(s)-Mr.S.Behera

ORDERDR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant is a retired employee of the Directorate of Field Publicity working under the Additional Director General, Ministry of Information & Broadcasting, Orissa (Res.No.3). He is aggrieved by the order of the Director General, Field Publicity, Ministry of I & B, Government of India (Res.No.2) rejecting his representation for restoration to the post of U.D.C.

2. Facts as they appear from the O.A. are that the applicant had joined with the Directorate of Field Publicity as L.D.C. in the year 1975 and was promoted to UDC in November, 2004. In the year 2010, he was reverted to his substantive post of LDC and posted at Puri. He alleges that he was forced to give his consent for reversion from the post of UDC to the post of LDC when he did not go to join at Balasore on deputation and proceeded on leave for 15 days on medical ground till 30.11.2010. When he joined after return from leave, Respondent No.3 forced him to sign on a pre-drafted letter giving his consent for reversion from his substantive post of UDC to LDC and for his transfer to Field Publicity Office at Puri. He also alleges that he was being pressurized to give evidence against another Field Publicity Officer, Puri which he had refused to do and the Respondent No.3 had nourished grudge against him for the said action. On 2.12.2010, Respondent No.3 forced him to sign on a blank note sheet. On 6.12.2010 another letter was submitted by him to Respondent No.3 praying for

retention in the post of UDC at Bhubaneswar on the ground that his mother is 90 years old and he himself had only one year four months of service left. However, on the same day on 6.12.2010, an Office Order was issued reverting and transferring him as L.D.C. to Puri on the basis of his representation. The applicant had made a complaint dated 6.8.2013 to the Secretary, Ministry of Information & Broadcasting (Res.No.1) about the illegal and arbitrary action of the Additional Director General, Field Publicity, Bhubaneswar (Res.No.3) in forcefully reverting him from UDC to LDC. Respondent No.1 had directed the Director of Field Publicity to enquire into this matter and also furnished the material information to the applicant under the RTI Act. The applicant had earlier approached this Tribunal in O.A.No.964 of 2013 which was disposed of by this Tribunal vide order dated 6.3.2014 directing Respondent Nos. 1 and 2 to consider the representation of the applicant within a period of 60 days and if the applicant is found to be eligible or entitled to any benefits then steps should be taken within a period of two months to pay whatever amount as per his eligibility. Pursuant to this order of the Tribunal, the impugned order dated 20.5.2014 at A/1 was passed rejecting the request for restoration of his status as UDC with all consequential service and financial benefits. Aggrieved by the said order and the order of reversion

dated 6.12.2010, the applicant has filed the present O.A. praying for the following reliefs:

- i) Admit the Original Application.
- ii) Issue notices to the respondents and
- iii) After hearing the counsel for the parties be further pleased to quash the impugned order under Annexure-A/1 dtd. 20.05.2014 and the impugned order of reversion dtd.06.12.2010 under Annexure-A/4 with a further direction to restore the status of the applicant as UDC w.e.f. 06.12.2010 with all consequential financial and service benefits including the retiral benefits; and/or pass such other order(s) as may be deemed just and proper in the circumstances of the case.

3. The applicant has based his prayer on the ground that the reversion order dated 06.12.2010 and the rejection order dated 20.05.2014 rejecting his representation are not sustainable in the eyes of law as it has been passed by Respondent No.2 without making any inquiry as directed by Respondent No.1 in his order under A/15. The impugned order under A/1 suffers from non-application of mind and based on extraneous consideration. The order of reversion under A/4 has been challenged on the ground that the applicant's reversion from the substantive post of UDC to LDC on his own request is completely illegal and not sustainable in law. It is a settled principle of law that a Government employee is revered from the substantive post to a lower post if the same is an outcome of departmental proceedings initiated against him. In the present case the reversion has been done on the alleged ground that the applicant had asked for the same. The reversion order was

issued without considering the applicant's representation dated 6.8.2012 wherein he had requested to drop the proposed reversion from UDC to LDC. The impugned order under A/1 also suffers from illegality as this Tribunal had directed Respondent No.1 to consider the representation of the applicant instead of Res.No.2. Moreover, the allegations made by the applicant against Res.Nos. 3 & 4 regarding manipulation of documents has not been dealt with by Respondent No.2 and as such the same is liable to be quashed.

4. The Respondents in their preliminary counter-reply filed on 22.6.2016 have submitted that the applicant was an irresponsible, irregular and not a punctual worker and had no commitment towards his work. He was in the habit of coming to office not before 11.30 AM almost all the days and leaving office much before the closing time and reading newspaper during office hours and causing unwanted indiscipline. To escape the workload piled up by him, he had submitted a representation dated 1.12.2010 for his reversion from UDC to LDC and requested for his posting to Field Publicity Office at Puri as LDC. He had already been served at least 10 Memos and a stern warning was given by then Head of Office prior to joining of the Additional Director General (Res.No.3) at the Regional Office, Bhubaneswar. On the basis of his representation and considering his overall performance, the ADG reverted him to the post of LDC and transferred him to the

Field Publicity Office, Puri. The Respondents have denied that the applicant was reverted to the post of LDC under threat or coercion. The applicant has also fabricated the story of being pressurized to give evidence against one Ex. Field Publicity Officer. He had on an earlier occasion on 3.12.2008 requested for his reversion from UDC to LDC in response to a Memorandum dated 28.11.2008 issued to him. The Respondents have also denied that the applicant was forced to put his signature on a blank note sheet. Although he had submitted another letter dated 6.12.2010 requesting to drop his letter of reversion from UDC to LDC by that time the order of his reversion had already been issued. A detailed inquiry was also made by Shri S.K.Rao, A.D.G., Directorate of Field Publicity, New Delhi on the complaint made by the applicant and the report stated that there was no evidence to show that the applicant has been pressurized or coerced to sign a letter for reversion to the post of LDC and the complaint was not substantiated by facts. The Respondents have enclosed a number of Memos issued to the applicant pointing out his late coming to office and his indiscipline. In one such Memo dated 2.9.2009, it has been mentioned that in spite of several warnings and memoranda issued, the applicant was coming to office in between 1.00 pm to 2.00 pm and put his signature as at 9.30 AM in the Attendance Register. He was directed to explain about his disobedience to the authorities and his

negligence to the duty within one day from the date of receipt of Memorandum, On 24.3.2009, he was sternly warned to desist himself from breach of discipline in the office. There are also Memoranda dated 31.5.2007, 22.10.2007, 10.9.2008, 15.9.2008 and 16.9.2008. It is the respondents' contention that since the applicant had himself requested for his reversion to the post of LDC from UDC by his letter to the Additional Director General, Directorate of Field Publicity dated 1.12.2010, there is no illegality in reverting him and transferring him to Puri as per his own request.

5. The applicant filed a rejoinder on 26.8.2016 in which he has contested the claim of the respondents that he had exhibited indiscipline in the office. It is his contention that not a single charge sheet had been issued against him nor any disciplinary proceeding was initiated on the basis of allegations of late coming and indiscipline. He submits that documents have been manipulated to show that he indulged in indiscipline.

6. We have heard the learned counsels from both sides and perused the documents submitted by them. The entire issue in this O.A. falls within a small compass. The documents filed by both the sides show that the applicant had himself requested for his reversion from the post of UDC to LDC and for his transfer to Field Publicity Office, Puri. Neither the applicant nor the Respondents dispute letter dated 1.12.2010 which is reproduced herein below:

"I am unable to do the UDC work due to my ill health. My mother 90 years old is bedridden and there is no body to look after her. I am only man to look after her. This is my own request done voluntarily in the interest of office as well as mine.

Therefore, I request you to kindly revert me to the post of LDC and transfer me to Field Publicity Office, Puri as it is the nearest Field Publicity unit, where there is clear vacancy of LDC".

7. Although the applicant submitted a handwritten note on 6.12.2010, there is an endorsement by the concerned official asking the A.O. to translate this in English and to submit to him. The note was diarized on 6.12.2010 but put up to the A.D.G. on 7.12.2010. On 6.12.2010 itself an order has been passed as follows:

"On consideration of the representation of Shri S.Khuntia, UDC, Regional Office, DFP, Bhubaneswar dated 01.12.2010 for his reversion from the post of UDC to the post of LDC, the official is hereby transferred to the Field Publicity Unit, Puri (Orissa) in the post of LDC today, i.e., 06.12.2010 afternoon with instruction to report to the destination place immediately. As this reversion and place of posting i.e., at DFP, Puri of Shri S.Khuntia made as per his own request, he is not entitled TA/DA/joining time, etc. The pay fixation of the official will be made as admissible under rules.

This issues with the approval of ADG".

8. Although the applicant has made different allegations at subsequent dates to the Respondent No.1, the fact remains that he himself had willingly opted for transfer to be posted at Puri and also for reversion from UDC to LDC. Any subsequent action to change his decision or reconsider his option opens up a chain which is unending. Government officials are expected to

considering all factors before exercising their option for reversion and transfer. There is nothing on record to show that there was any bias against the applicant, because he had refused to give evidence against a Field Publicity Officer. So the ground taken by him that he was coerced to make a request for reversion does not stand to reason. Although the respondents have produced documents to show that they had issued a number of Memoranda to the applicant for his acts of non-punctuality and indiscipline, his reversion and transfer is not a result of disciplinary action. On the other hand, such reversion and transfer is at his own request and therefore, we find no illegality in the action of the Respondents. Respondent No.3 had considered the representation of the applicant as per the orders of this Tribunal dated 6.3.2014 and has passed a reasoned order discussing the circumstances of the applicant's reversion and transfer on his own request. We therefore, find no illegality in the impugned order at A/1 dated 20.05.2014. In view of the above, the O.A. is dismissed as devoid of merit, with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

BKS

(S.K.PATTNAIK)
MEMBER(J)