

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 290/2003
M.A. No. 303/2003

This the 6th day of February, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Malhotra, Member (A)

1. Jitender Kumar, 1592/DAP
 2. Surender Pal Singh/1618/DAP
 3. Rakesh/7406/DAP
 4. Suraj Bhan, 1837/DAP
 5. Raghbir Singh, 1512/DAP
 6. Jatinder Kumar, 1592/DAP
 7. Shyam Babu, 4947/DAP
 8. Narbat Ram, 1784/DAP
 9. Surender Katri, 1895/DAP,
 10. Yash Pal Singh, 3487/DAP,
 11. Raj Kumar, 8787/DAP,
 12. Ravi Kumar, 1519/DAP,
 13. Mathura Lal, 8483/DAP,
 14. Chander Singh, 1691/DAP
 15. Om Pal Singh, 4255/DAP
 16. Krishan Singh, 1785/DAP,
All are working as Constable
in Delhi Police

(By Advocate : Shri V.P. Sharma)

Versus

1. N.C.T. of Delhi through the Chief Secretary,
New Sectt. New Delhi.
 2. The Commissioner of Police,
Delhi Police, Police Headquarters,
I.P. Estate, New Delhi.
 3. The Director General
I.T.B.P., CGO Complex,
Lodhi Road, New Delhi.

... Respondents

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman :

MA 303/2003

MA 303/2003 is allowed subject to just exceptions. Filing of the joint application is permitted.

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OA 290/2003

The applicants are constables in the Indian Tibet Border Police. They were sent on deputation in Delhi Police. Their term of deputation is upto 31.5.2003. By virtue of the impugned order dated 31.1.2003, the applicants have been repatriated to their parent department with immediate effect.

2. By virtue of the present application, the applicants are seeking quashing of the said order on the grounds that: (a) they may not be repatriated before the due date i.e. 31.5.2003 and (b) principles of natural justice have been ignored.

3. On careful consideration of the submissions made by the learned counsel, we find reasons unable to agree with the same. Reasons are obvious and not far to fetch.

4. Whenever a person is sent on deputation, the necessary corollary is to be followed. The deputationist has no vested right to continue on deputation and has to be sent back to his parent department. It is true that in normal circumstances, he should be allowed to continue ~~beyond~~ ^{5/11} the expiry of the said period, but this cannot be taken as an absolute rule. The exigency of the service can always be permitted and if so required an order has to be passed otherwise.

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5. Our attention has been drawn towards the decision of the Bombay Bench of this Tribunal in the case of K.S. Panicker Vs. Union of India and Ors. decided on 18.12.1995 (1996 (1) ATJ 168). On the strength of this decision, it is being contended that the applicants cannot be repatriated before the due date. However, perusal of paragraph 4 of the cited order passed by the co-ordinate bench reveals that "it is not open to the borrowing department i.e. the respondents to repatriate the applicant prematurely without the consent of the parent department". There is not even a whisper in the original application before us that it is being done without the consent of the parent department. Therefore, the cited decision so much relied by the learned counsel is of little application in the facts of the present case.

6. Learned counsel further relies upon the decision of the Supreme Court rendered in the case of Rameshwar Prasad Vs. Managing Director, U.P. Rajkiya Nirman Nigam Ltd. (1992 (2) ATJ 635). Before venturing into the controversy, we deem it necessary to state that the judgement of the Apex Court would be binding on principle of law but not when the facts are different. In the case of Rameshwar Prasad (supra), the Apex Court was basically concerned with the rules that were applicable to U.P. Rajkiya Nirman Nigam Limited (Engineers and Architects) Service Rules, 1980. It was on perusal of these rules that the cited judgement had been pronounced. Otherwise also therein it was a deputation from one public sector undertaking to another. The facts clearly show that it will not be applicable to the facts of the present case.

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7. So far as the contention that principles of natural justice had to be observed, the said contention has simply to be rejected. The principles of natural justice, though having been made deep in roads into our jurisprudence, still it is well recognised that it will not be applicable in such like cases of posting and transfer or as a necessary corollary when the person is repatriated.

8. Resultantly, for the reasons stated above, the present application which is without merit, must fail and is accordingly dismissed in limine.


(S.K. Malhotra)

Member (A)


(V.S. Aggarwal)

Chairman

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