

(2002) 08 DEL CK 0200
Delhi High Court
Case No: C.W.P. No. 1599 of 1981

J.N. Gupta

APPELLANT

Vs

Union of India (UOI)
and Others

RESPONDENT

Date of Decision: Aug. 29, 2002

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: S.B. Sinha, C.J; A.K. Sikri, J

Bench: Division Bench

Advocate: H.K. Puri, Achintya Dwivedi and Ujjwal Bannerjee, for the Appellant; Navin Chawla, for the Respondent

Final Decision: Dismissed

Judgement

S.B. Sinha, C.J.

The petitioner is a Central Government employee. Till 08.05.1979, he was posted as Director of Industries, Delhi Administration. From 08.05.1979 to 15.06.1979, he worked as an Administrator, State Co-operative Bank, Delhi. The same was an Ex-Cadre post. He was appointed as general Manager of the Co-operative Stores Limited (Super Bazar), Connaught Circus is a co-operative society registered under the Delhi Co-operative Societies Act, 1972.

2. According to the petitioner, the Central Government not only grants loans to the co-operative society, but also exercised its control over them from time to time. By reason of a resolution adopted by the Managing Committee of the Super Bazar dated 10.02.1981, the petitioner was sent back to his Parent Department.

3. The Central Government thereafter issued the following orders:-

"Subject: D.O. letter No. Precl/DSC/87 dated the 12th February 1981.

Sir,

I am directed to refer to your letter referred to above and to inform you that it has been decided to relieve Shri J.N. Gupta, IAS (UT-60) from the charge of General Manager, Super Bazar, New Delhi and he has also been asked to hand over charge to Shri G.R. Sehgal, Asstt. General Manager, Super Bazar today and report to Establishment Officer, Department of Personnel and Administrative Reforms, New Delhi for further instructions regarding his posting.

Your faithfully,

Sd/-

Jagdish Joshi

Deputy Secretary to the Govt. of India"

4. The petitioner being aggrieved by and dissatisfied with the said purported orders filed this writ petition claiming inter alias the following reliefs:-

(i) Issue Writ, directions or order in the nature of certiorari quashing the resolution of the Committee of the Management dated 10.2.1981, the order contained in the letter dated 9.3.1981 of the Joint Secretary, Government of India, Ministry of Civil & Supplies, New Delhi (Annexure VIII); and the transfer order dated 22.6.1981 (Annexure (XIII)).

(ii) Issue writ, directions or order in the nature of mandamus directing the respondents to post him on the post of General Manager, Super Bazar and to give an option to the petitioner to be permanently absorbed on the post of General Manager, Super Bazar, New Delhi;

or in the alternative

to issue writ, directions, or order in the nature of writ of mandamus directing the Government of India to post the petitioner on some such post in Delhi which is accordingly remunerative to the petitioner in all respects.

(iii) To issue, writ directions or order in the nature of mandamus directing the respondents to pay the salary and other benefits of the petitioner from March 1981 onwards.

(iv) To issue an order restraining the Government of India and Super Bazar from filling up the post of General Manager during the pendency of this Petition;

5. Mr. Puri, the learned counsel appearing on behalf of the petitioner, would contend at the very outset that the orders of his transfer has lost all its importance.

As regard the question as regards maintainability of the writ petition against the co-operative society, the learned counsel, could not satisfy us as to how such writ petition is maintainable.

He, however, submitted that the petitioner being an employee of the Central Government the impugned orders could not have been passed.

6. The petitioner was deputed to Super Bazar as a deputationist. He has no right to hold the said post. The petitioner, a bare perusal of the entire writ petition would show, had sought for issuance of a writ, directions or order in the nature of Mandamus directing the respondents that he be directed to be permanently absorbed on the post of General Manager or in the alternative post him on such post in Delhi, which is accordingly remunerative in all respects".

7. Apart from the fact that the petitioner does not have any legal right for obtaining the said reliefs, the relief sought for by the petitioner, in our opinion, are themselves suggestive of the fact that he wanted a proper posting where he would get proper remuneration. What is meant thereby is beyond our comprehension.

8. As indicated hereinbefore, the petitioner had no right to stick to the post on deputation. When he had been called back by reason of the impugned orders it was his duty to report to the concerned Department. The Central Government has not terminated his services It is not known as to whether he has joined his post or not pursuant to the impugned orders. If he has not done so, he must thank himself therefore. Having regard to the fact that the services of the petitioner had not been terminated, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot direct that he be permanently absorbed in the post of General Manager, Super Bazar.

9. For the reasons aforementioned, this writ petition is wholly devoid of any merit, which is dismissed accordingly with costs, which is quantified at Rs. 10,000/-.