

T. D. Subramaniam Alias Satyapalan

Vs

Union of India and Others

Special Leave Petition (Civil) No. 1879 of 1981

(A.C. Gupta, A.P. Sen JJ)

28.07.1981

ORDER

GUPTA, J. –

1. This is a somewhat extraordinary case. The special leave petition is directed against an order of a Division Bench of the Delhi High Court affirming an order passed by a Single Judge of that court dismissing a writ petition filed by the petitioner before us. In the writ petition the petitioner questioned the validity of an order of compulsory retirement made against him. He was posted as Directed of Posts and Telegraphs, Orissa Circle, with headquarters at Cuttack, in January 1964 when he was asked to go to Ambala as Director of Posts and Telegraphs. The order of compulsory retirement appears to have been made because the petitioner disobeyed the order of transfer. The petitioner took leave up to August 2, 1964 and even thereafter he did not report for duty at Ambala. The charges against the petitioner were that he had overstayed leave without permission and that he deliberately disobeyed the order of transfer. According to the petitioner the order of transfer was mala fide as it was made under pressure from the Posts and Telegraphs Employees' Unions and political leaders associated with them.

2. The respondents in their affidavit before the High Court asserted that the transfer was made in the exigencies of service. It appears from the impugned judgment of the High Court that even according to the respondents the petitioner was "a competent and zealous officer who was responsible for bringing to an end a lot of malpractices particularly with regard to medical bills submitted by subordinate staff in the Orissa Circle". It was also not disputed that the "trade unions got rather worked up on the stiff action" taken by the petitioner. A Deputy Director-General of Posts and Telegraphs was sent to Orissa to make an enquiry into the state of affairs there and he submitted a report. In this report also it was acknowledge that the petitioner was "a competent officer with a zeal to root out malpractices". It was however added that he was "lacking in tact in dealing with his subordinates". It was suggested by the Deputy Director-General of Posts and Telegraphs that in the exigencies of the situation it was advisable to transfer the petitioner. A member of the Posts and Telegraphs Board wrote to the petitioner on December 3, 1963 that while the Board appreciated the measures taken by the petitioner to curb malpractices in the claims, the action taken by him which was rather "stiff" had led to deterioration of relations between the trade unions on the one hand and the officers of the Posts and Telegraphs Department on the other, and the petitioner was advised to be tactful with the staff. At about the same time, who posts of Director, Postal Services, were required to be filled and the Board appointed the petitioner to the post of at Ambala.

3. Both the learned Single Judge and the Division Bench of the High Court found that the order of transfer was not made as a result of pressure from the trade unions. We find no material on which

we can take a different view. It was also found that the relations between the trade unions and the officers of the Posts and Telegraphs Department had deteriorated at Cuttack. The Division Bench of the High Court has described the situation as follows :

The Government had problem. On the one hand was a competent and strict officer, though somewhat lacking in tact. On the other hand were a large number of employees who had not been handled tactfully by the appellant when he had tried to put things right... A certain situation existed and a solution had to be found. The solution was found in a particular manner.

In the facts of the case we are inclined to agree with the High Court that the order of transfer was made in the exigencies of service.

4. The petitioner has been found to be lacking in tact. It seems exercising tact when according to the petitioner firmness was called for was against his principles. Apparently "tact" is also one of the qualities that a government officer is required to possess, and in the situation described above the petitioner left no option to the authorities. However in these circumstances we do not think any stigma in the sense in which the word is ordinarily understood attaches to the petitioner because of the order of compulsory retirement passed against him. The special leave petition is dismissed.

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