

Teja Singh

Vs

Union Territory of Chandigarh and Others

Special Leave Petition (Civil) Nos. 6400 And 5875 of 1981

(D. A. Desai, O. Chinnappa Reddy JJ)

30.09.1983

ORDER

CHINNAPPA REDDY, J.

Special leave granted.

1. The appellant, Teja Singh was appointed as a Radiographer in the composite State of Punjab in November 1959. In 1964, he was posted to the General Hospital, Sector 16, Chandigarh. The Punjab Reorganisation Act was enacted in 1966 and the composite State of Punjab was split into the States of Punjab & Haryana and the Union Territory of Chandigarh and some areas were transformed to the Union territory (now State) of Himachal Pradesh. Section 4 of the Act provided for the formation of the Union Territory of Chandigarh and specified the areas which were to form such Union Territory. Section 6 specified the territories which were to comprise the future State of Punjab. Section 82(i) provided that every person, who immediately before the appointed day (November 1, 1966), was serving in connection with the affairs of the existing State of Punjab should, on and from that date, provisionally continue to serve in connection with the affairs of the State of Punjab unless he was required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any successor State. Section 82(ii) required the Central Government, as soon as may be after the appointed day, to determine, by general or special order, the successor State to which every person referred to in sub-section (i) should be finally allotted for service and the date with effect from which such allotment should take effect or be deemed to have taken effect. In exercise of the powers conferred by Section 82(i), the Central Government, On October 24, 1966, made an order requiring all person, who immediately before the appointed day were serving with the affairs of the State of Punjab in the territories specified in Section 4 of the Punjab Reorganisation Act to serve provisionally from the appointed day in connection with the affairs of the Union Territory of Chandigarh. The effect of the order was to provisionally allot, from the appointed day, all those employees of the composite State of Punjab, who were serving in the territories proposed to be constituted as the Union Territory of Chandigarh to the service of the Union Territory of Chandigarh. However, before the appointed day, on October 30, 1966, the Government of India, issued another order, also under Section 82(i) of the Punjab Reorganisation Act, requiring the person mentioned in the Schedule annexed to the order, who were serving immediately before the appointed day in connection with the affairs of the State of Punjab to serve, provisionally, from the appointed day in connection with the affairs of the State of Punjab, Haryana and the Union Territory of Himachal Pradesh, as indicated in the said Schedule. Amongst the personnel belonging to the Health Department allocated to the State of Punjab and shown in the Schedule, the appellant, Teja Singh, Radiographer was shown at serial No. 836. The effect of the special order dated October 30, 1966 over the general order dated October 24, 1966 was that Teja

Sigh's allotment to the Union Territory of Chandigarh by the general order dated October 24, 1966 stood superseded by the special order dated October 30, 1966 allotting Teja Singh by name to the State of Punjab. Therefore on October 31, 1968, the Government of India issued two orders under Section 82(ii) of the Punjab Reorganisation Act. By the first order, the Central Government determined that all persons belonging to the Health department who immediately before the appointed day were serving in connection with the affairs of the State of Punjab in the territories specified in Section 4 of the Act, that is to say, in the territories which were to comprise the Union Territory of Chandigarh, and who were required by the order dated October 24, 1966 to provisionally serve in connection with the affairs of the Union Territory of Chandigarh, shall be deemed to have been finally allotted to the Union Territory of Chandigarh, with effect from October 1, 1966. By the second order, the Central Government determined that all persons belonging to the Health Department, who immediately before the appointed day were serving in connection with the affairs of the State of Punjab in the territories specified in Section 6 of the Act, that is to say, in the territories which were to constitute the new State of Punjab and who were required provisionally to serve in connection with the affairs of the State of Punjab, shall be deemed to have been finally allotted to the State of Punjab with effect from October 1, 1966. The second order contained a further proviso which stated that the persons, who were mentioned by name in column 1 of the Schedule annexed to the order, shall be deemed to have been finally allotted to the State of Union Territory shown in column 3 of the said Schedule, It is important to note here that Teja Singh's name was not mentioned in the Schedule, The effect of the two orders dated August 31, 1968 on Teja Singh was that he stood finally allotted to the State of Punjab. Even after the final allocation of the appellant to the State of Punjab, he continued to work in the General Hospital in the Union Territory of Chandigarh. According to the Government of Punjab, he was allowed to work in Chandigarh on deputation. He continued to work in the General Hospital, Chandigarh till 1973, when an order was passed relieving him from the General Hospital, Chandigarh and directing him to report for duty to the State of Punjab. By another order, the Government of Punjab posted him to Muktsar, The appellant questioned the order of transfer, in writ petition, but later withdrew the same. Consequent on his reversion to the State of Punjab from the General Hospital, Chandigarh, the allotment of quarters to the appellant was also withdrawn. Thereupon the appellant filed two writ petitions in the High Court of Punjab and Haryana. By the first one, he questioned the right of the Government of Punjab to post him or transfer him anywhere as, according to him, he had been finally allotted to the Union Territory of Chandigarh and not to the State of Punjab. He claimed that he was an employee to the Union Territory of Chandigarh and not of the State of Punjab. The second writ petition was a consequential one in which he questioned the withdrawal of the allotment of quarters to him. Both the writ petitions were dismissed by the High Court on March 16, 1981. The two civil appeals now before us have been filed by Teja Singh under Article 136 of the Constitution.

2. Shri Abhishek Singhvi, learned counsel, who presented the case for the petitioner, neatly and forcefully, urged that the effect of the order of provisional allotment dated October 24, 1966 and the first of the two orders of final allotment made on August 31, 1968 was that Teja Singh stood finally allotted to the Union Territory of Chandigarh. He invited our attention to some correspondence which passed between the State of Punjab and the Government of India to urge that the State of Punjab also laboured under the impression that Teja Singh was allotted to the Union Territory of Chandigarh. We are afraid we cannot accept the submission of Shri Singhvi. The order of provisional allotment dated October 30, 1966 in which Teja Singh, by name, was allotted to the State of Punjab, certainly prevailed over the general order of allotment dated October 24, 1966. If that was so, it followed that it was the second of the final orders of allotment dated August 31, 1968 that applied to Teja Singh. The net effect of the two provisional orders dated October 24, 1966 and

October 30, 1966 and the two final orders dated August 31, 1966 was that Teja Singh stood allotted to the State of Punjab and not to the Union Territory of Chandigarh. In fact, we find that Teja Singh himself had addressed several letters to the State of Punjab and the Union Territory of Chandigarh claiming that he had been allotted to the State of Punjab. It was only when some hitch arose in connection with his entitlement to certain fees or allowance that he started raising a dispute, claiming that he was allotted to the Union Territory of Chandigarh and not to the State of Punjab. We have no option but to dismiss both the civil appeals.

3. As a result the failure of appellant to join his post in the of State of Punjab, the Government of Punjab issued an order terminating his services. The order of termination was a result of misunderstanding and confusion on the part of the appellant. The appellant has now expressed his readiness to serve in the State of Punjab. In the circumstances of the case, we think that it will be just and proper to set aside the order of the Government of Punjab terminating the services of the appellant. We accordingly set aside the order of the Government of Punjab terminating the services of the appellant and direct that he may be reinstated in service as Radiographer with continuity of service, within two weeks from today. He may be posted at any place in the State of Punjab, but the Government may consider whether it is possible to retain him at Chandigarh itself or post him to a place nearabout Chandigarh, if a post is available either at Chandigarh or nearabout Chandigarh. We are told that even after the reversion of the petitioner to the State of Punjab, he continued to work in General Hospital, Chandigarh under the interim orders of the High Court. It appears that he has not been paid any salary during that period. The Union Territory of Chandigarh had the benefit of his services and for the period during which appellant worked in the General Hospital, Chandigarh, the Union Territory Administration is directed to pay his salary and allowances. The appellant is given three months' time to vacate the quarter now occupied by him. The appeals are dismissed, subject to these directions.

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