

(2006) 04 DEL CK 0072

In the Delhi High Court

Case No : Writ Petition (C) No. 5815 of 2005

Ram Narain Prasad

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-04-2006

Acts Referred:

General Clauses Act, 1897 — Section 21
Prevention of Food Adulteration Act, 1954 — Section 3, 9(1)
Prevention of Food Adulteration Rules, 1955 — Rule 9

Citation : (2007) 3 SLJ 510

Hon'ble Judges : P.K. Bhasin, J;Mukul Mudgal, J

Bench : Division Bench

Advocate : Party-in-Person, for the Appellant; Amit Kumar, Madhu Sharma and Jai Bansal, for the Respondent

Final Decision : Dismissed

Judgement

1. Rule DB.
2. With the consent of the parties matter is taken up for final hearing.
3. This writ petition by the petitioner an erstwhile Food Inspector under the Central Government, challenges the original order dated 21st December, 2004 and the order in review dated 21st February, 2005 in R.A. No. 40/2005 by the Central Administrative Tribunal, Delhi (CAT) in O.A. No. 1884/2004.
4. The order dated 27.8.2002 impugned by the petitioner in CAT reads as follows:
SO. 911 (E)--In exercise of the powers conferred by Sub-section (1) of Section 9 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Central Government hereby rescinds the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) S.O. No. 2243 dated the 30th April, 1983, published in the Gazette of India, Part-II, Section 3, Sub-section (ii) for appointment of Shri R.N. Prasad as Food Inspector for the local area for the territories to which said Act applies.

5. The petitioner has challenged the order dated 27.8.2002 and submitted that the duty of a food inspector, as stipulated in Rule 9 of the PFA Act, 1955, have not been assigned to the petitioner. It is further submitted that on an appointment as a food inspector, which is a statutory post under the Central Government, such statutory appointment could not be rescinded as the PFA Act is a constitutional mandate. The Tribunal after relying upon the judgment of the Hon'ble Supreme Court in P.U. Joshi and Others Vs. The Accountant General, Ahmedabad and Others, held that since Section 9 of the PFA Act provides for appointment on statutory basis the power to rescind the appointment is deemed to be inherent in the power of appointment. The Tribunal also recorded findings in Paragraphs 14, 15 and 16 as follows:

14. A notification issued by the Government in 2002 is within the administrative exigencies as the Delhi Government as a State Subject has enforced the PFA Act and they have their own food inspectors and Directorate of Health where the food inspectors are statutorily appointed under the PFA Act, there would be anomalous situation and interference in the performance of the duties, applicant was rightly accorded other duties and action taken to rescind his appointment is with jurisdiction and is permissible u/s 21 of the General Clauses Act.

15. However, before hand it is to be established by applicant that any prejudice has been caused to him by the action of the respondents. Applicant has been getting the same salary and his promotional avenues are not at all affected. Moreover, Government can alter the conditions of service even to the detriment of a Government servant, as held by the Apex Court in P.U. Joshi (supra).

16. In the result, we have no hesitation to observe, and this is also not disputed, that the respondents through an order to be passed within two months from the date of receipt of a copy of this order intimate to applicant duties and responsibilities to be performed by applicant after rescinding of his appointment as Food Inspector. Besides this, we do not find any merit in the present O.A., which is accordingly dismissed. No costs.

Pursuant to the aforesaid direction of the Tribunal an order of 10th February, 2005 was passed in respect of the petitioner which reads as follows:

Subject: Duties and responsibilities to be performed by Shri R.N. Prasad, Food Inspector.

In compliance with the orders of Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, Dated 21st December, 2004, in O.A. No. 1884/2004, it has been decided with the approval of Competent Authority that following duties and responsibilities shall be performed by Shri Ram Narain Prasad, Food Inspector. Shri Prasad will be assisted by Sh. Raj Kishore, Field Assistant.

(i) Collection of information from various State Government/UTs regarding infrastructure and capacity available with the State/UT Governments from time-to-time in respect of Food Inspectors, Local (Health) Authorities Public Analysts,

Food Testing Laboratories and other manpower and equipments.

(ii) All work related to food poisoning cases in the country and their follow-up.

(iii) Parliamentary matter/VIP References on the above subjects,

Sh. Prasad will route his files/papers through ADG (PFA).

6. We are unable to understand how the petitioner is aggrieved by the aforesaid findings. Since the State Government of Delhi has enforced the Prevention of Food Adulteration Act they have their own inspectors and since the petitioner has not been prejudicially affected in any manner in terms of his emoluments and perquisites he cannot insist upon continuing in his erstwhile post of a Food Inspector. Thus while affirming the above findings of the CAT the writ petition is dismissed and stands disposed of accordingly.