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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1325/2002

New Delhi this the 12th day of March, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

D. Sangunam son of Sh. R. Dravid,
R/o B-89/1, East of Kailash,
New Delhi-110065. -Applicant

(By Advocate Shri B.S. Mathur)

-Versus-

1. Chairman,
Central Pollution control Board,
Pariyesh Bhawan,
CBD cum Office Complex,
East Arjun Nagar,
Delhi-110032.
2. Member Secretary,
Central Pollution Control Board,
Pariyesh Bhawan,
CBD cum Office Complex,
East Arjun Nagar,
Delhi-110032.
3. The Secretary,
Ministry of Environment and Forests,
Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110003. -Respondents

(By Advocate Sh. S. Mohd. Arif)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant seeks grant of HBA which has been kept in abeyance by the respondents pending decision by the cadre controlling authority, i.e., Ministry of Environment and Forests in consultation with DOPT.

2. Applicant has applied through proper channel for allotment of flat in the welfare scheme. Accordingly type 'C' accommodation was allotted. Consequent upon this he applied for the HBA by his letter dated 15.3.2002. His priority through letter dated 3.11.2000 has been fixed at serial No.14. and was subject to availability of funds.

3. In pursuance of OM dated 19.1.2001 applicant furnished to respondents additional information. Applicant earlier filed OA-2141/2000 for promotion and release of LTC. By order dated 8.11.2001 his claim for promotion was rejected but in so far as other grievance including break in service and claims he has been accorded opportunity to follow the same in accordance with rules.

4. In reply to MA-1062/2001 it has been informed by respondents that the claim of applicant has been stalled as the question regarding completion of 10 years service and break in service under FR 17 is under clarification from the Ministry as to the question whether the aforesaid break under rule is a disability for grant of HBA. Hence the present OA.

5. Learned counsel for applicant stated that as per Government instructions contained in GIDP letter dated 19.8.86 break in service under FR-17-A entails disability in so far as LTC, quasi permanency and eligibility for appearing in departmental examination are concerned, but the same is not a disability for considering employee's request for HBA. In this view of the matter it is stated that referral through Ministry of clarification is unfounded and applicant is entitled for the relief prayed for. Learned counsel has also furnished to me an office memorandum dated 13.2.2003 issued by an Administrative Officer where it is stated that the case for HBA has been considered by the Committee and the same is accepted by the competent authority subject to final decision of this court.

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5. On the other hand, respondents' counsel Sh. S. Mohd. Arif in his reply contended that in so far as break in service under FR 17 is a disability to grant HBA is concerned, respondent No.2 has requested through various communications to the administrative Ministry, i.e., Environment and Forests Ministry for seeking clarification in the matter, but as the same has not yet been finalised the claim of applicant is still to be materialised. It is stated that as applicant has not completed 10 years service the same is an impediment for grant of HBA.

7. I have carefully considered the rival contentions of the parties. In view of the fact that Ministry of Environment and Forests has been impleaded through the amended memo of parties as respondent No.3 and MA to this regard is allowed, I do not find under FR 17 or the instructions issued thereunder break in service as an impediment or disability for grant of HBA. But, as the matter has been referred to administrative Ministry for clarification which is to be further sought from DOPT, present OA is disposed of with the direction to respondent No.3, Secretary, Ministry of Environment and Forests to seek the necessary clarifications in the light of what is stated above as to break in service under FR-17-A whether an impediment or disability for grant of HBA within a period of four weeks from the date of receipt of a copy of this order. On clarification the applicant shall be allowed HBA within four weeks thereafter.

8. With these observations the OA stands disposed of. No costs.

S. Raju
(Shanker Raju)
Member (J)

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