

Bench

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE
REVIEW APPLICATION NO.15/2019 IN ORIGINAL APPLICATION
NO.170/00191/2008**

DATED THIS THE 05th DAY OF MARCH, 2020

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Sri Upendra S. Baghel
Former IPS
Residing at: 2nd Floor
Rikeerthi Complex
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(Opp BDA Complex)
Sector-4, HSR Layout
Bengaluru-560 102.

.....Applicant

(By Advocate M/s. Subbarao & Co.)

Vs.

1. Union of India
through the Secretary
Ministry of Home Affairs
North Block
New Delhi 110 002.

2. State of Karnataka
through the Chief Secretary
Government of Karnataka
Bangalore 560 001.

.....Respondents

(By Advocates Shri M.V. Rao, Sr. PC for CG for R-1 and Shri R.B.Sathyanarayana
Singh, State Govt. Counsel for R-2)

ORDER

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))

This review application has been filed against the order of this Tribunal in OA.No.191/2008 dtd.21.4.2011. The OA was challenged before the Hon'ble High Court of Karnataka in WP.No.23001/2011(S-CAT) and the same was dismissed vide

orders of the Hon'ble High Court of Karnataka dtd.3.3.2014. The SLP filed against this order of the Hon'ble High Court of Karnataka was dismissed on 5.5.2015. After a period of almost 4 years from the dismissal of SLP, the review applicant has filed this RA stating that vide Annexure-RA13, a relieving order is not necessary when an officer returns after a foreign posting and therefore the State of Karnataka, respondent No.2 in the OA insisting on such relieving letter was not correct and there is suppression of the material facts by the respondents amounting to playing fraud by the respondents and therefore, the RA should be allowed. Annexure-RA13 states as follows:

7.5 CHARGE REPORT:

Charge report in the case of officers on deputation out of India is not necessary unless officiating arrangements are contemplated. In such cases, an official intimation of the exact date of commencement of the deputation and date of its termination should be sent to audit by Ministry/Head of Department concerned. In the case of study/training abroad the official should relinquish his post and prepare a charge report even if an officiating arrangement is not made in his place. Min. of Finance O.M.No.2(1)-E.II/55, dt.1-8-55.

2. It is very obvious from a simple reading of the same that a charge report in the case of officers who are going on deputation out of India is not necessary unless officiating arrangements are contemplated. This only means that when an officer is to be relieved from India, handing over charge to another official may be contemplated in certain cases. In such cases, the handing over charge should be completed and an appropriate handing over charge should be done. However, if an officiating arrangement is not made, the officer should relinquish his post and prepare a charge report. This is not in any way concerned with getting relieved from a foreign employer on deputation. As was stated by the Karnataka Government vide Annexure-RA7, the so called joining of the review applicant was not accepted since he continued to be with the UN Mission on the day of his so called reporting and also proceeded back to

UN without permission of the competent authority. The Govt. of Karnataka took the stand that the officer cannot be under dual control at the same time.

3. Therefore, it is clear that having miserably failed in all his attempts to justify his action in not reporting back to duty after the period of deputation was over under some pretext or the other, the review applicant now claims to have discovered a new fact which will help him to re-open the case. This is clearly a travesty of the judicial process and we find no merit in the RA which has been filed to review the order issued almost 9 years back and almost 4 years after the SLP has been dismissed by the Hon'ble Apex Court. Therefore, the RA is dismissed. No costs.

(C.V.SANKAR)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER(J)

/ps/

Annexures referred to by the review applicant in RA.No.15/2019:

Annexure-RA1: Communication dtd.6.2.2006

Annexure-RA2: Direction dtd.17.5.2006

Annexure-RA3: Representation dtd.1.3.2006

Annexure-RA4: Relieve the applicant by Feb/march 2008

Annexure-RA5: Memorandum dtd.13.3.2007

Annexure-RA6: Reporting dtd.24.12.2007

Annexure-RA7: Reporting letter dtd.16.1.2008

Annexure-RA8: Notification dtd.25.2.2008

Annexure-RA9: Order dtd.3.3.2014 in WP.23001/2011

Annexure-RA10: Order dtd.5.5.2015 in SLP.13903/2014

Annexure-RA11: Letter dtd.25.7.2016

Annexure-RA12: Reminder request dtd.14.8.2018

Annexure-RA13: Charge report

Annexure-RA14: Resolution No.955/1994 of the UN

Annexure-RA15: Communication dtd.12.3.2007

Annexure-RA16: Letter dtd.10.2.2005

Annexure-RA17: Affidavit

Annexure-RA18: Order in OA.191/2008 dtd.21.4.2011

Annexures with reply of R1:

Annexure-R1: Letter dtd.1.12.2005

Annexure-R2: Letter dtd.17.5.2006 of Govt. of Karnataka

Annexure-R3: Letter dtd.1.7.2006 of Govt. of Karnataka

Annexure-R4: Memorandum dtd.13.3.2007

Annexure-R5: Email dtd.14.3.2007

Bench

Annexure-R6: Letter dtd.17.12.2007 of Min. of Home Affairs

Annexure-R7: Letter dtd.24.12.2007 of the applicant

Annexure-R8: Letter dtd.29.1.2008 of the applicant

Annexure-R9: Notification dtd.25.2.2008

Annexure-R10: Memorandum dtd.13.3.2007

Annexure-R11: Letter dtd.28.4.2007 of the applicant

Annexures with rejoinder to the reply of R1:

Annexure-RA19: Verifying affidavit

Annexures with reply of R2:

-NIL-

Annexures with rejoinder to the reply of R2:

-NIL-

Annexures with Memo dtd.8.8.2019

Annexure-R20: Order in SLP(C).No.13903/2014 dtd.5.5.2015

Bench