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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No.189/2001

New Delhi this the 13th day of December, 2001

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

R.P. Yadav,
S/o Late Shri P.S. Yadav,
Senior Investigator, Finance Commission Division,
Department of Expenditure, Ministry of Finance,
Block-XI, Fifth Floor,
CGO Complex, New Delhi-110003.

(By Advocate: Shri K.N.R. Pillai)

-Applicant

Versus

1. Union of India
through Secretary, Department of Expenditure,
Ministry of Finance, North Block,
New Delhi-110001
2. Secretary,
Department of Personnel & Training,
North Block, New Delhi-110001
3. Shri Deena Nath,
Assistant Director,
Department of Expenditure,
Room No. 79, North Block,
New Delhi-110001
4. Ms. Nalini Pathak,
Assistant Director, Finance Commission Division,
Department of Expenditure,
Block-XI, Fifth floor,
CGO Complex, New Delhi-110003.
5. Shri Jasvinder Singh,
Assistant Director, Finance Commission Division,
Department of Expenditure,
Block-XI, Fifth floor,
CGO Complex, New Delhi-110003.
6. Shri V. Srikanth
Assistant Director, Finance Commission Division,
Department of Expenditure,
Block-XI, Fifth floor,
CGO Complex, New Delhi-110003.

-Respondents

(By Advocate: Shri N.S. Mehta)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

This application has been made by the applicant

(B)

alleging that one permanent and three temporary posts of Assistant Director (Finance Commission Division), Department of Expenditure, have not been circulated on completion of the normal deputation period of three years and consequently whereas respondents 3 to 6 were brought on deputation on the post of Assistant Director, the applicant did not get an opportunity for consideration for promotion as Assistant Director. It is further alleged that the appointment orders of the aforesighted respondents were made without following the prescribed procedure. The applicant has sought setting aside of the appointments of respondents No. 4 to 6 (Annexure A-5) and direction to the respondent No.1 to issue orders for repatriation of respondent No.3 to his parent organisation who was appointed on deputation basis and also that respondent No.1 to circulate the three newly created posts and one existing post of Assistant Director for filling up on promotion/deputation basis as per the Recruitment Rules.

2. Learned counsel for respondents Shri N.S. Mehta drew our attention to Annexure R-III which are the Ministry of Finance, Department of Expenditure (Finance Commission Cell) Recruitment Rules 1984 (hereinafter known as 'RRs', as per which the post of Assistant Director (F.C.Cell) has to be filled by promotion/Transfer on deputation. Under these rules, the departmental Senior Investigators have to have 5 years regular service in the grade to become eligible for consideration for appointment to the post of Assistant Director for purposes of filling up the post by promotion. Shri Mehta also referred to an affidavit filed by respondents on the behest of this Tribunal on 20.9.2001 regarding status of deputation of



Respondents No. 3 to 6. It is stated that Respondent No.3 Shri Dinanath, a regular Senior Investigator of Department of Expenditure was appointed to the post of Assistant Director on deputation basis from 21.2.1997. He completed 4th year deputation on 20.2.2001. His tenure of deputation has been extended for the 5th year with the approval of the competent authority and would expire on 20.3.2002. As regards, Ms. Nalini Pathak, Respondent No.4, a regular Economic Investigator in the Department of Economic Affairs, she was initially appointed as Assistant Director with the respondents w.e.f. 5.10.2000. The tenure of her deputation is running in the 4th year and has been extended upto 31.3.2002. Shri Jasvinder Singh, Respondent No.5, a regular Research Investigator of Department of Agriculture & Cooperation, was initially appointed as Assistant Director in the 11th Finance Commission on deputation basis from 18.6.98 where he continued upto 28.9.2000. He was appointed as Assistant Director on deputation basis with the respondents from 28.9.2000. His deputation is running in the 4th year and has been extended upto 31.3.2002. Shri V. Srikanth, Respondent No.6, a regular Senior Investigator of Ministry of Industry who was initially appointed as Assistant Director in the 11th Finance Commission on deputation basis w.e.f. 29.4.98 remained with it till 25.9.2000. He was appointed as Assistant Director with the respondents on deputation basis w.e.f. 26.9.2000. His deputation tenure, running in the 4th year, has been extended upto 31.3.2002.

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3. Shri Mehta pointed out that as per Annexure R-I dated 27.6.96, the applicant was appointed as Senior Investigator in the Finance Commission Division on a regular basis w.e.f. 8.4.96 and as such he becomes eligible for consideration for appointment as Assistant Director on completion of 5 years regular service in the grade on 8.4.2001 only. He stated that respondents 3 to 6 were appointed and their deputation term was extended for the 4th year before completion of 5 years regular service as Senior Investigator ^{of b} of the applicant, therefore, ^{he b} he cannot have any grievance against the appointment/deputation/ extension of deputation of Respondents 3 to 6.

4. The learned counsel of the applicant Shri Pillai contended that the respondents have not followed the Recruitment Rules/instructions on the subject inasmuch as they have not circulated these posts among various Ministries and Departments for filling up on deputation and have appointed the respondents 3 to 6 without circulation of these posts. Be that as it may, the applicant was not eligible for consideration for promotion to the post of Assistant Director as per the Recruitment Rules prior to 8.4.2001 when the related posts were filled up by deputation/extension of deputation of Respondents 3 to 6. In any case, the tenure of deputation of Respondents 4 to 6 is expiring on 20.2.2002 and in case of Respondent No.3 on 31.3.2002. Whereas in the facts and circumstances of the case, we cannot accord any relief to the applicant, however, respondents 1 & 2 are directed not to fill up these posts of Assistant Director in the

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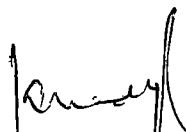
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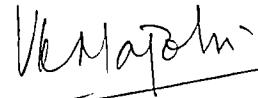
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Department of Expenditure without following the
Recruitment Rules and instructions on the subject.

5. The OA is disposed of in the above terms.

No costs.


(Kuldip Singh)
Member (J)


(V.K. Majotra)
Member (A)

cc.