

Central Administrative Tribunal
Principal Bench

O.A. No. 277 of 2001

New Delhi, dated this the 30th JANUARY 2002

(10)

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHAKER RAJU, MEMBER (J)

Shri V.R.K. Nair,
S/o late Shri A.V. Pillai,
R/o 107, Minto Road Hostel,
New Delhi-110002. .. Applicant

(By Advocate: Shri K.L. Bhandula)

Versus

1. Union of India through
the Secretary,
Ministry of Water Resources,
Shram Shakti Bhawan,
New Delhi-110001.
2. Chairman,
Central Water Commission,
Sewa Bhawan,
R.K. Puram,
New Delhi-110066. .. Respondents

(By Advocate: Shri R.N. Singh)

ORDER

S.R. ADIGE, VC (A)

Applicant seeks proforma promotion under NBR w.e.f. 17.8.92 i.e. the date of promotion of his junior Shri S.P. Jindal, EAD/AE, or alternatively to fix his basic pay in the grade of EAD/AE in the scale of Rs.6500-10500 at par with his juniors who were promoted along with him.

2. Heard both sides.
3. By order dated 31.7.92 (Annexure III) applicant who was working as J.e. in Bhutan was promoted and posted EAD/AE under Chief Engineer, North Eastern Region, Shillong. Respondents' letter

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(1)

dated 17.11.93 (Annexure R-III) reveals that

aforesaid order dated 31.7.92 was passed on to applicant on 25.8.92 on proper receipt, but applicant himself avers in para 1(iii) of his O.A. that he did not join as EAD/AE in Shillong pursuant to the aforesaid order dated 31.7.92. Subsequently he was further posted to N.E. Investigation Division II under N.E. Investigation Circle, Shillong vide order dated 4.9.92. Meanwhile he had earlier applied for the post of A.E. in N.W.D.A. Trivandrum and consequent to his selection, orders for relieving him from CWC issued on 31.7.92 upon which he relinquished charge on 5.9.92 and proceeded on deputation to Trivandrum. Meanwhile Shri S.P. Jindal, whose name featured below applicant's name in order dated 31.7.92 and was also promoted and posted by the same order in C.E., N.E. Region, Shillong, presumably joined his post pursuant to that order soon after.

5. Government of India order No.29 below FR 22 in Swamy's Compilation of FRs and SRs 13th Edition 1997 lays down that N.B.R. is attracted where an officer in a post (whether within the cadre of his service or not) is prevented from officiating in his turn in a post in the higher scale. In the present O.A. there is no averment by applicant that he was prevented from joining as EAD/A.E. at Shillong. Indeed applicant did not join at Shillong of his own volition because meantime he had been selected for deputation under N.W.D.A. at Trivandrum and made over charge to proceed to Trivandrum on 5.9.92.

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6. In the light of the above, neither the benefit of NBR nor of pay fixation vis-a-vis Shri S.P. Jindal is admissible to applicant. The O.A. is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

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S. Adige

(S.R. Adige)
Vice Chairman (A)