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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.3019/2001

DATE OF DECISION: 1.7.2002

Shri G.S. Pirzada

... Applicant

Shri Ashwani Bhardwaj

...Advocate for the applicant

VERSUS

Union of India and Ors.

....Respondents

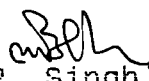
Shri M.M. Sudan for R-1, Shri S.S. Shergit,
DAG, Sr. Addl. General along with Sh. Atul Nanda
for R-2 and Shri C. Paramsivam for R-3, Advocates

Coram:-

HON'BLE SHRI M.P. SINGH, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

- 6.
1. To be referred to the reporter or not? Yes/~~No~~
 2. Whether it needs to be circulated to other Benches of the Tribunal? Yes/No


(M.P. Singh)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.3019/2001
CP No.675/2001

New Delhi, this the 1st day of July, 2002

HON'BLE MR. M.P.SINGH, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Shri G.S. Pirzada, IAS (RR : 82)
S/o Shri Gur Kirpal Singh,
working as Managing Director,
Punjab State Electronics Development and
Production Corporation Limited,
R/o, House No.137, Sector 9 B,
Chandigarh.

... Applicant

(By Advocate: Shri Ashwani Bhardwaj)

V E R S U S

1. The Govt. of India,
Through The Secretary,
Ministry of Personnel, Public
Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi.
2. The Government of Punjab,
Through The Chief Secretary,
Punjab Civil Secretariat,
Chandigarh.
3. The Government of Tamil Nadu,
Through The Chief Secretary,
Fort St. George,
Chennai, Tamil Nadu.

... Respondents

(By Advocate: Shri M.M. Sudan, senior
counsel for R-1))
Shri S.S. Shergil, DAG, Sr. Addl.
General along with Sh.Atul Nanda for R-2
Shri C. Paramshivam for R-3.

O R D E R (ORAL)

Shri M.P. Singh, Member (A)

In the present OA, the applicant is challenging the notifications dated 23.10.2001 and 29.10.2001 issued by Respondent No.2 (Annexure A-2 Colly.).

2. The brief facts of the case are that the applicant, who is an IAS ^{officer} of 1982 Batch of Tamil Nadu cadre, was sent on deputation from State of Tamil Nadu

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to State of Punjab for a period of three years with the concurrence of State Govts. of Punjab, Tamil Nadu and the Govt. of India. The deputation was to take effect from the date of joining with the Government of Punjab (Respondent No.2). The applicant joined the Govt. of Punjab (Respondent No.2) on 29.10.1998. In the year 1999, the applicant requested Respondent No.2 for cadre transfer from Tamil Nadu to Punjab due to some family problems. Respondent No.2 recommended the case of the applicant to Respondent No.1 for cadre transfer and also for extension of period of deputation of the applicant. The Respondent No.1 asked for the concurrence of respondent No.3 for extension of the period of deputation of the applicant. Respondent No.3 accorded their concurrence for the extension of the deputation. Without awaiting for the decision/approval of the Respondent No.1, the Respondent No.2 vide notification dated 8.10.2001 repatriated the applicant to the State of Tamil Nadu w.e.f. 28.10.2001. The applicant immediately represented to Respondent No.2 and requested them to re-consider their decision to relieve/repatriate him, as the case for cadre transfer and extension of deputation period was pending consideration with the Respondent No.1. On 29.10.2001, the respondent No.2 appointed Shri Sukhbir Singh Sandhu, IAS as Managing Director, Punjab State Electronics Development and Production Corporation Limited (a post held by the applicant) without deciding the representation of the applicant. The applicant requested Respondent No.2 for grant of medical leave from 25.10.2001 to 30.10.2001. He joined his duty on 31.10.2001 and immediately



represented to Respondent No.2, inter alia, mentioning that vide order dated 8.10.2001, no further posting was given to the applicant. In the meantime, the Respondent No.1, exercising the powers conferred by Rule 6 (1) of the Indian Administrative Service (Cadre) Rules, 1954, accorded the approval for extension of deputation period of the applicant for service under the Government of Punjab for further period of two years from October 2001. Since no action has been taken by Respondent No.2 on the various representations of the applicant, he has filed this OA seeking relief by praying for direction to quash and set aside the notifications dated 23.10.2001 and 29.10.2001 issued by Respondent No.2 and has also sought directions to the respondents to implement the notification dated 30.10.2001 issued by Respondent No.1 with all consequential benefits.

3. The respondent No.2 has contested the case and has stated that the applicant had already been repatriated to his parent State, i.e., Tamil Nadu vide order dated 23.10.2001 from the date of expiry of his deputation term, i.e., 28.10.2001. According to Respondent No.2, the competent authority had passed the order not to retain the applicant in the State of Punjab as a matter of policy. Moreover, the case of other IAS officers on deputation with State Governments are also under process for their repatriation to their parent States. Although, the State Govt. had recommended the case of the applicant for cadre transfer and extension of deputation period but no orders were received up to the date of expiry of the deputation period of the applicant



and as such the State Govt. had repatriated the applicant to his parent State. It is also stated by the respondent No.2 that the applicant was relieved on 29.10.2001 by the Administrative Secretary concerned, hence, there is no sanctity of the notification dated 30.10.2001 issued by the Govt. of India. In view of the factual position explained above, the present OA is liable to be dismissed with costs.

4. Respondent No.1 has also filed their reply and has stated that a cadre officer can be allowed inter-cadre deputation with the concurrence of the Central Govt. and the concerned State Governments. The matter comes exclusively within the domain of the executive and no interference of judiciary is warranted. They have relied upon the judgement in the case of Mallikarjuna Rao and Ors. Vs. State of Andhra Pradesh and Ors. ((1990) 2 (SCC) 707), wherein the Hon'ble Supreme Court has held that "11... It is neither legal nor proper for the High Courts or the Administrative Tribunals to issue directions or advisory sermons to the executive in respect of the sphere which is exclusively within the domain of the executive under the Constitution...". Respondent No.1 has also relied upon the judgement of High Court of Kerala in the case of Sukumar N. Oommen V/s U.O.I. (O.P. No.28088 of 2001). wherein Hon'ble High Court vide its judgement and order dated 24.9.2001 has held as follows :-

"4. We are of the view that petitioner has not made out a case warranting interference under Article 226 of the Constitution of India. Petitioner belong to Manipur-Tripura

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Joint Cadre. Government of India after getting concurrence of State Governments of Manipur, Tripura and Kerala had issued notification dated 15.7.1999 under Rule 6(1) of the Indian Administrative Service (Cadre) Rules, 1954 according approval for deputation of the petitioner for a period of two years with effect from the date of his joining duty. He accordingly joined duty on 22.9.1999. That period is now over. No further order has been issued by the Government of India extending the period of deputation after getting approval from the respective States. Petitioner has no legal right to insist that he should be allowed to continue on deputation after the period of deputation ordered by the Government of India is over. Terms of deputation of a cadre officer to be deputed to another State depends upon concurrence of the lending Government as well as the borrowing Government. The mere fact that the lending Government has accorded its approval does not mean that the borrowing Government have to give its approval."

5. It is further stated by the Respondent No.1 that after issuing the order of repatriation unless it is reversed by the State Govt., the consent of the State Govt. of Punjab is deemed to have been withdrawn and the notification dated 30.10.2001 issued by the Central Govt. is not capable of implementation under Rule 6 (1) of IAS (Cadre) Rules. In view of the submissions made above, the present OA deserves to be dismissed and the interim order passed by the Tribunal is liable to be vacated.

6. We have heard both learned counsel for rival contesting parties.

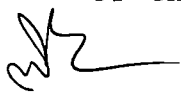
7. During the course of the argument, learned counsel for the applicant has submitted that the request of the applicant for extension of deputation period beyond three years and also change of cadre was under

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consideration of the Central Govt. as his case was recommended by the Respondent No.2 on 22.3.2001 (Annexure A-6). The Central Govt. vide their letter dated 30.10.2001 has already given the concurrence for extension of deputation period of the applicant for another two years from October 2001. He has also drawn our attention to Rule 6 (1) of IAS (Cadre) Rules, 1954, wherein it has been provided that in the case of any disagreement the matter shall be decided by the Central Govt. and the State Govt. or State Governments. concerned shall give effect to the decision of the Central Govt. In this case, the Central Govt. has already granted their approval for extension of deputation period for another two years. Therefore, the Respondent No.2 is bound to give effect to the decision of the Central Govt. for extension of deputation period beyond October 2001 for two years.

8. On the other hand, learned Senior counsel for the respondent No.1 Shri M.M. Sudan has stated that since the State Govt. of Punjab had already issued a notification for the repatriation of the applicant to his parent State, i.e., State of Tamil Nadu, the approval given by the State Govt. of Punjab for extension of deputation period of the applicant is deemed to have been withdrawn. Therefore, the approval given by the Central Govt. under Rule 6 (1) of IAS (Cadre) Rules, 1954 is also deemed to have been withdrawn. He has also stated that the applicant has no legal right to continue on deputation beyond the period of three years or beyond October 2001.



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9. Learned counsel for the State of Tamil Nadu has made ^va statement across the bar that he has got written instructions from the State Govt. of Tamil Nadu to the effect that they are not agreeable for extension of deputation period of the applicant as there is a shortage of senior IAS officers working in the State. According to the learned counsel for the State Govt. of Tamil Nadu, the applicant, who is an officer of 1982 Batch, has been away on deputation since 1989 on one pretext or the other. Since the applicant has served in the State Govt. for a very short period, his services are required immediately by the State Govt. Learned counsel for the State Govt. of Punjab has submitted that the deputation of the applicant came to an end on 28.10.2001 and, therefore, the applicant was repatriated to his parent cadre i.e. State Govt. of Tamil Nadu from the same date. A substitute in his place had also been appointed on 29.10.2001. The State Govt. of Punjab does not require the services of the applicant any more and, therefore, there is no question of extension of deputation period of the applicant beyond October 2001.

10. We have perused the papers placed before us, we find that Rule 6 (1) of the IAS (Cadre) Rules, 1954 provides that a cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not, which is

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wholly or substantially owned or controlled by the Central Government or by another State Government. In this case, we find that neither the State Govt. of Tamil Nadu which is the parent cadre authority of the applicant is agreeable to lend the services of the applicant on deputation nor the State Govt. of Punjab (borrowing authority) requires the services of the applicant any more as per policy decision taken by them. The stand taken by the Central Govt. is that the consent given by them for extension of deputation beyond October 2001 is deemed to have been withdrawn by them, as both the State Governments are not agreeable to the proposal for the deputation of the applicant beyond October 2001. The applicant, who is a member of All India Service, has the liability to serve in any part of India. He has no legal right to insist that he should be allowed to continue on deputation with the State Govt. of Punjab even after the period of deputation of the applicant is over. In the circumstances, we do not find any ground to interfere with the notifications dated 23.10.2001 and 29.10.2001 issued by the Respondent No.2.

11. For the reasons recorded above, the present OA has no merit and is accordingly dismissed. No order as to costs.

12. Interim order granted in favour of the applicant on 5.11.2001 stands vacated.

13. C.P. No.675/2002 filed by the applicant also stands disposed of accordingly.


(SHANKER RAJU)
MEMBER (J)


(M.P. SINGH)
MEMBER (A)

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