

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.2584/1999

(2)

New Delhi this the 6 th day of February, 2001

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri Govindan S.Tampi, Member(A)

Shri P.K.Tyagi,
S/o Sh.R.N.Tyagi,
Business Executive,
Publication Division
Ministry of Information and
Broadcasting, New Delhi.
R/O B-159, Brij Vihar,
Ghaziabad(UP)

..Applicant

(By Advocate Sh.K.N.R.Pillay)

VERSUS

1. Union of India, through:
The Secretary,
Ministry of Information and
Broadcasting, Shastri Bhawan,
New Delhi.

2. The Director,
Publication Division,
Patiala House, New Delhi.

.. Respondents

(By Advocate Sh.V.S.R.Krishna)

O R D E R

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

The applicant is aggrieved by the order passed by the respondents dated 13.1.1999 reverting him to the post of Assisant Business Manager(ABM) with retrospective effect from 11.12.1998 and not continuing him in the higher post on ad hoc basis.

2. The brief relevant facts of the case are that the applicant was selected for appointment to the post of Business Manager(BM) in the Directorate of Public Relations, Ministry of Defence, on transfer on deputation basis while he was working as ABM(Ad hoc) by Office Order 6/97-Admn.I dated 4.3.1997. Shri.

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K.N.R.Pillay, learned counsel for the applicant states that the period of deputation was for three years or till further orders whichever is earlier in the pay scale of Rs.2000-3500. Before the expiry of the period of three years, the applicant's deputation was curtailed and he was repatriated to his parent Department and asked to report for duty in the post of ABM (Ad-hoc) on 11.12.1998. This was done by order dated 17.12.1998. In this order, it was further stated that his ad hoc appointment in the post of ABM will be effective till 9.1.1999(AN) unless it is extended beyond that date. Subsequently, the respondents passed Office Order No. 6/99-Admn.1 dated 13.1.1999 in supersession of their earlier order dated 17.12.1998. This order has been impugned in this application. In the order dated 13.1.1999, it has been stated that on his repatriation from the deputation post of BM at Sainik Samachar, Directorate of Public Relations, Ministry of Defence, the applicant is taken on the strength of Publications Division in the capacity of Business Executive(BE) with retrospective effect i.e. from 11.12.1998. During the hearing, learned counsel for the parties submitted that the post of ABM in the Publications Division carries a higher pay scale, to which post he had been reverted w.e.f. 11.12.1998.

3. We have heard Shri K.N.R.Pillay, learned counsel for the applicant and Shri V.S.R.Krishna, learned counsel for the respondents. Learned counsel for the applicant has submitted that the respondents have stated in their reply that the applicant had been reverted much before three years period of deputation

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because they had decided to proceed against him Departmentally. According to him, he could not have been reverted before the expiry of three years. We are unable to agree with this contention because in the order dated 4.3.1997, it is clearly stated that the applicant was being sent to the Ministry of Defence on transfer on deputation basis and in the subsequent letter dated 7.3.1997(Annexure A VII) it has been stated that it will be for a period of three years or till further orders whichever is earlier. The appointment on deputation shall be governed by the DOP&T OMS dated 29.4.1988 and 5.1.1994. In the circumstances, the order to repatriate the applicant prior to the completion of three years cannot be faulted as it is within the discretion of the competent authority to do so.

4. The applicant has stated that after his repatriation to his parent Department, he was posted as ABM(Ad hoc) till 9.1.1999. This order was modified by the impugned order dated 13.1.1999 placing him in the post of BE w.e.f. 11.12.1998, which is a admittedly a lower post. The post of BE was his substantive post in his parent Department. Sh.K.N.R.Pillay, learned counsel has submitted that on his repatriation to his parent Department, the applicant could not have been reverted to the post of BE but should have been placed in the higher post of ABM(Ad hoc) which he held at the time of deputation in (4) 1997. This has been controverted by the learned counsel for the respondents. We agree with the contention of the respondents that on his repatriation to the parent Department, the applicant has no legal

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right to be appointed as ABM(Ad hoc) but can only be reverted to his substantive post as BE. However, taking into account the orders passed by the respondents themselves dated 17.12.1998 which has been superseded by the order dated 13.1.1999, the applicant will have the right to be paid in the pay scale of ABM(Ad hoc) from 11.12.1998 till 13.1.1999, as the later order cannot be given effect to from a retrospective date. Subject to this, we do not find any merit in this application. It is settled law that the applicant does not have any legally enforceable right to be appointed as ABM which he had held only on ad hoc basis or to continue in that post. Sh. V. S. R. Krishna, learned counsel for the respondents has submitted that no junior to the applicant has continued in that post. He has further submitted that DPC for promotion to the higher posts has been held and the applicant's case will also be considered in accordance with law.

5. Learned counsel for the applicant relies on the Govt., of India Decision No 4 below Rule 11 of the CCS(CCA) Rules, 1965. Admittedly, after applicant's reversion to his parent Department, departmental proceedings have been initiated against him by issue of the charge sheet dated 19.1.2000. The applicant had already been reverted from the deputation post to his substantive post much prior to the date of initiation of the departmental proceedings. In the circumstances, the aforesaid provisions relied upon by the applicant's counsel will not be applicable to the facts of this case.

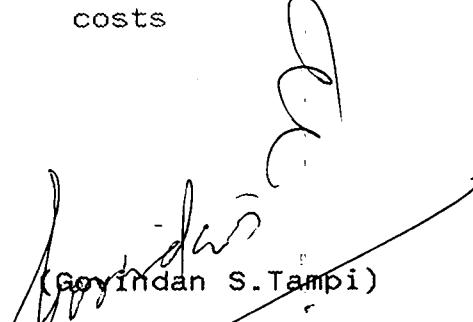
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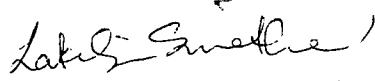
6. In the result for the reasons given above, the application is disposed of with the following directions:-

(i) The impugned order dated 13.1.1999 is partly quashed and set aside to the extent that the applicant shall be entitled to pay and allowances of the post of ABM(Ad hoc) from the date of his repatriation from deputation i.e. from 11.12.1998 till 13.1.1999; the other reliefs are rejected.

(ii) The above due amount shall be paid to the applicant within a period of two months from the date of receipt of a copy of this order. No order as to costs


(Govindan S. Tampli)

Member (A)


(Smt. Lakshmi Swaminathan)

Vice Chairman (J)

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