

Central Administrative Tribunal
O.A. No. 371 of 1999

New Delhi, dated this the 1st FEBRUARY, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

S/Shri

1. D.K. Tyagi,
S/o late Shri J.P.Tyagi,
R/o 13A, MIG, DDA Flats, Gulabibagh,
Delhi-110007.
2. B.S. Mathur,
S/o late Shri J.C. Mathur,
R/o 349, Lakshimabinagar,
New Delhi-110023. Applicants

(By Advocate: Shri R. Doraiswamy with
Shri Sant Singh)

Versus

Union of India through

1. The Secretary,
Dept. of Supply,
Nirman Bhawan,
New Delhi-110001.
2. The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi-110001.
3. The Secretary,
Dept. of Personnel & Training,
Lok Nayak Bhawan,
New Delhi-110003. Respondents

(By Advocate: Shri S. Mohd. Arif)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Heard both sides.

2. Admittedly applicants were working against isolated posts of Asst. Director (Supplies) Grade II in Supply Department when by O.M. dated 30.12.91 they along with their posts were transferred to Home Ministry with a view to their absorption

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there pursuant to the policy of centralised purchase of stores and equipments. (10)

3. However, respondents (Home Ministry) have expressed their inability to accede to applicants' request for absorption in that Ministry against posts of Section Officers or any other capacity. They point out that posts of Section Officers are manned by officers of CSS, and the CSSS. Rules do not provide for lateral entry. It is also pointed out that the terms and conditions ~~are~~ ^{contained} in O.M. dated 30.12.91 itself do not confer any claim on applicants to compel the Home Ministry to absorb applicants against any other grade/posts other than the posts with which they have been transferred. It has also been pointed out that ~~now~~ there is no existing hierarchy for the applicants, and a hierarchy cannot be created without functional justification. Furthermore applicants if absorbed in their present capacity will have to continue against the same isolated posts till their superannuation, and as they will be dealing with procurement and purchases, respondents emphasise that such an arrangement is not in the public interest.

5. In our view these arguments are unexceptionable and in the particular facts and circumstances pointed out, applicants cannot compel respondents to absorb them in the Home Ministry. The ruling in O.A. No. 82/95 K. Hanumanthappa Vs. Western Command, Mumbai and Others relied upon by

✓ applicants also does not help applicants because in that case the Naval authorities had a functional hierarchy large enough to absorb that applicant, and in fact he had been asked to give his option whether he would like to be absorbed or not, while in the present case respondents have clearly stated that they are not in a position to absorb the applicants in any hierarchy and it is also not in the public interest to absorb them against isolated posts. The example of Railway Ministry cited by applicants also does not help them, because there was a specific agreement between Railway Ministry and DP&T that officers transferred to Railway Ministry would be absorbed there, as they did not want to part with the services of officers who had been fully trained in their organisation, which is not the case in the Home Ministry.

6. Furthermore we note that by Supply Department office order dated 27.11.98 applicants already stand promoted as Assistant Director (Grade I) in Indian Supply Service as per their entitlement and are posted to DGS&D (Headquarters).

7. The O.A., therefore, warrants no interference. It is dismissed. No costs.

Kuldeep
(Kuldeep Singh)
Member (J)

'gk'

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