

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No. 1587/98

New Delhi this the 9th day of September, 1998.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

Shri Sube Singh,
S/O Shri Hari Ram,
R/O C/O Sh. Hari Prakash Gaur,
Shahbad, Mohammed Pur,
Near I.G.I. Airport,
New Delhi-110061

... Applicant

(By Advocate Shri Ashwani Bhardwaj)

Versus

1. Union of India through Secretary
to the Govt. of India, Ministry of
Planning and Programme Plantation,
Deptt. of Statistics,
Sardar Patel Bhawan,
New Delhi-110001
2. Sh. D. S. Sethi,
Under Secretary to the
Govt. of India,
Ministry of Planning and Programme
Plantation,
Deptt. of Statistics,
Sardar Patel Bhawan,
New Delhi-110001
3. The Additional Economic Adviser,
Govt. of India, Ministry of Industry,
Udyog Bhawan, New Delhi.

(By Advocate Shri Mohar Singh)

... Respondents

ORDER (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Heard.

2. We have seen the short reply filed by the respondents. The applicant is aggrieved by the order dated 23.7.98 passed by Respondent 2 refusing his request to relieve him to join the higher post of Senior Economic Investigator (SEI) in the Office of Economic Investigator, Ministry of Industry. From the short reply filed by the respondents, it is noted that the applicant had submitted his application to UPSC for the post of SEI through his office. However, Respondents 1-2 have submitted that at the time when the application was forwarded there were ~~only~~ 29 persons in position as against the cadre

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strength of 44 Junior Investigators whereas when the offer of appointment was given to the applicant by the UPSC, there were only 17 Junior Investigators in position at that time. Therefore, they submit that since the number of vacancies in the cadre are below 10% they are not in a position to release the applicant to assume charge of the higher post of SEI in the Ministry of Industry.

3. Learned counsel for the applicant has also brought to our attention the letter dated 4.8.98 issued by the Additional Economic Adviser, Respondent 3 to Respondent 2 in which it has been, inter-alia, stated that if the applicant does not join his post by 31.8.98 or any letter is not received regarding him, then his offer of appointment will be cancelled. By the Tribunal's order dated 25.8.98 this letter had been stayed, restraining Respondent 3 from giving effect to the portion of the letter cancelling the offer, if the applicant did not join the post of SEI by 31.8.98.

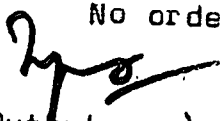
4. In the facts and circumstances of the case, it is, therefore, seen that the applicant's case depends on the whims and fancies of the two departments/Ministries of the Govt. of India, one threatening to cancel the promotion order if he does not join his new post and the other Ministry on the other hand refusing to release him to join there. Applicant has been given the offer of appointment by the UPSC as a direct recruit after selection through an open competition. It is also interesting to note that both the Ministries are saying that in their own respective Ministries both the cadres are below the desired strength and need the applicant's services very badly, one as Junior Investigator and the other as Senior Economic Investigator. We are not impressed by the arguments submitted by the learned counsel for the respondents that based on certain general guidelines, they are unable to release the applicant because the number of officers they have is less than

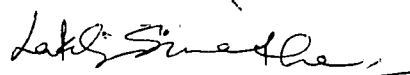
10% of the cadre strength. It was for the department to have taken necessary action well in time to safeguard their cadre strength. It is also not disputed that the applicant had submitted his application to the UPSC against an advertisement dated 12.4.97 through proper channel and the respondents cannot therefore, complain that they are ignorant of the selection of the applicant to the higher post. Respondent 3 has made an offer of appointment to the applicant in their letter dated 3.4.98 and it is now September, 1998.

5. In the above facts and circumstances of the case we see no good grounds to allow Respondents 1-2 to further delay the release of the applicant, so as to enable him to join the higher post of SEI with Respondent No.3 i.e. Govt. of India, Ministry of Industry in accordance with their offer of appointment.

6. In the result the application succeeds and is allowed. The impugned order dated 23.7.98 is quashed and set aside. Respondents 1-2 are directed to take further action to release the applicant within two weeks from the date of receipt of a copy of this order so that he can join the post of S.E.I. as early as possible, till which time Respondent No.3 shall keep the offer of appointment open.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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