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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 26/98

New Delhi: Dated this the 5th day of November, 1998.

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

HON'BLE DR. A. VEDAVALLI MEMBER (J)

Shri L.M. Khanna,

S/o Late Shri S.N. Khanna,
R/o II-8/31, IARI Colony,
Pusa Campus,
New Delhi

..... Applicant.

(By Advocate: Shri K.L. Bhandula)

Versus

1. Secretary to the
Govt. of India,
Ministry of Science & Technology,
Department of Science & Technology,
Kutab Hotel,
Mehrauli,
New Delhi.

2. The Surveyor General,
Surveyor of India,
Govt. of India,
Post Box No. 37,
Dehradun -01

3. The Director Survey (AIR),
West Block-IV, R.K.Puram,
New Delhi -066

..... Respondents.

(By Advocate: Shri K.C. Dewan)

ORDER

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

Applicant impugns respondents' order dated 27.10.97 (Annexure-I) and seeks treatment as a Survey Assistant w.e.f. January, 1997 till 31.10.97 with consequential benefits.

2. Applicant was promoted as Survey Assistant ^{was} and transferred to Hyderabad vide order dated 28.1.97 (Annexure-III). Para 2 of the aforesaid order clearly stated that the date of their being relieved for promotion, or the date of their refusing promotion should be intimated to

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the office by 14.2.97 and if no information was received by that date it would be assumed that applicant was not interested in being promoted and would be debarred for further promotion for one year w.e.f. 15.2.97. Applicant was to retire on superannuation on 31.10.97 and represented against being transferred to Hyderabad on 20.1.97 and 20.3.97 on account of this fact, and certain family circumstances. Upon receiving no satisfactory response from respondents he decided to proceed to Hyderabad and applied for TA/DA on 5.9.97 upon which he was informed that his case had been treated as a refusal and his promotion/transfer order did not stand anymore. He states that when he came to know that a post of Survey Assistant against which he had been posted at Hyderabad had been temporarily transferred to Delhi till 1.11.97 he submitted his joining report on 11.9.97 which was accepted by respondents' office and he started to perform the duties of Survey Assistant, but on 31.10.97 he received the impugned letter dated 27.10.97.

3. We have heard applicant's counsel Shri Bhandula and respondents' counsel Shri Dewan. We have also perused the materials on record.

4. Clearly in terms of para 2 of respondents' order dated 28.1.97 noticed above, applicant's conduct must be treated as his refusal to proceed to Hyderabad on promotion and in terms of that order respondents were fully entitled to treat his case as

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one of refusal to accept promotion and cancel the same. Even if a post of Survey Assistant was transferred to Delhi, applicant was not vested with any authority *suo moto* to give his joining report against that post. In any case the transfer of that post to Delhi was cancelled by order dated 9.11.97 (Annexure-R/1).

5. The OA warrants no interference. It is dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN(A).

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