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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.1287/95

New Delhi the 15th October, 1999.

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE SHRI S.P. BISWAS, MEMBER(A)

Shri V.K.Agarwal,  
S/o Shri Jai Prakash Garg,  
R/o 479/2, Gali No.1,  
Vijay Park,  
Manujpur,  
Delhi-110032.

..Applicant

(By Advocate Shri G.D.Gupta)

vs.

1. Union of India through  
the Secretary to the  
Govt. of India,  
Ministry of External Affairs,  
South Block,  
New Delhi.

2. The Secretary to the Govt. of India,  
Ministry of Communication,  
Department of Telecommunication,  
Central Telegraph Office,  
Eastern Court,  
New Delhi.

..Respondents

(By Advocate Shri N.S.Mehta with Sh.H.K.Gangwani )

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

While the applicant was working as a Telegraphist in the Telecommunication Department, he was selected and appointed as U.D.C.(Telegraphist) in the Ministry of External Affairs ,New Delhi in December,1988 on deputation. The terms and conditions under which the applicant was sent on deputation to the Ministry of External Affairs were as follows:

" Deputation

The Telegraphists will be taken on deputation for a period which may not ordinarily exceed three years.

2. Payment/Budget Head:

As the Telegraphists are proposed to be taken on deputation, the Ministry will pay their salary, allowance O.T.A. as admissible.



3. Prospectus:

The Ministry will consider absorption after the deputationists complete three years of deputation with the M.E.A. on the basis of their performance in this Ministry. Thereafter, postings will be made on the basis of their seniority in the roster of UDC(Tel.) for the purpose of posting."

The applicant was after completion of 3 years service on deputation sent on posting abroad to Colombo in September/October, 1992. Since the applicant was posted abroad on completion of a period of 3 years, according to the applicant it has to be held that he was absorbed in the Ministry of External Affairs. The present grievance of the applicant is that he has been reverted and repatriated to the parent department by order dated 16th June, 1995. Therefore the applicant has filed this application for a declaration that the action of the respondents in repatriating the applicant to his parent department and not considering him as absorbed is illegal, arbitrary, discriminatory and malafide and for a direction to respondent No.1 to treat the applicant as absorbed or to absorb him forthwith.


2. Respondents 1 and 2 have filed separate reply statements. The second respondent has contended that the applicant has not been absorbed and therefore as a deputationist, he has no right either to claim absorption or for a direction that he should be treated to have been absorbed.

3. In the reply statement of the first respondent, it has been stated that the applicant has on repatriation joined the parent department on 11.8.95.

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4. Shri G.D.Gupta, the learned counsel of the applicant argued that in terms of the recruitment rules for the post of U.D.C.(Telegraphist) of the Ministry of External Affairs as also the terms under which the applicant was taken on deputation, the applicant had a right for being considered for absorption and that as the applicant had after the expiry of 3 years of service been posted abroad, it should be held that the applicant had been absorbed in the respondents. If such a presumption cannot be drawn, the respondent No.2 has to be at least directed to consider the absorption of the applicant as he satisfies all the eligibility criteria for such absorption, argued Sri Gupta. We do not find any basis for the contention that just because the applicant was retained by the Ministry of External Affairs and posted abroad even after a spell of initial period of deputation, a conclusion should be reached that the applicant had been absorbed in the Ministry. Therefore the claim of the applicant for a declaration that he has to be deemed to have been absorbed in the Ministry of External Affairs has only to be rejected. As far as the applicant's claim for absorption is concerned, it is the prerogative of the borrowing department to absorb a deputationist, if they consider such absorption beneficial to them. A deputationist has no indefeasible right to claim absorption. The second respondent had made it clear in the reply statement that after the year 1986, no deputationist has been considered for absorption.

5. In the light of what is stated above, we do not find any merit in this application and therefore we dismiss the same, leaving the parties to bear their own costs.

  
S.P. BISWAS  
MEMBER(A)

  
A.V. HARIDASAN  
VICE CHAIRMAN