

(78)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1112/95

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

New Delhi, the 4th day of January, 2000
Satinder Kumar
Working as Technical Officer
Indian Grain Storage Institute
P.B. No.10, Hapur 245 101

...Applicant

(By Advocate: Shri V.K. Rao)

Versus

1. The Films Division
Ministry of Information & Broadcasting
Government of India
24, Dr. Gopal Rao Desh Mukh Marg
Bombay

2. The Union Public Service Commission
Dholpur House, New Delhi

3. The Union of India
through the Ministry of
Information & Broadcasting
New Delhi

...Respondents

(By Advocate: Shri S.M. Arif)

O R D E R

HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

In the present application the applicant has sought to challenge the order dated 10th April, 1992 cancelling the offer of appointment made to him for the post of Branch Manager in the office of the Films Division. He has also challenged the office letter dated 1st January, 1993 whereby he was informed that it was not found possible to accede to his request for revival of the offer of appointment. The applicant has inter-alia prayed to quash and set aside the said two orders.

2. A vacancy for the post of Branch Manager was notified to the Union Public Service Commission, in short 'UPSC', New Delhi by the Films Division. After

advertising the post and holding the interviews, the UPSC recommended the name of the applicant for appointment against the post of Branch Manager, Films Division vide their letter dated 14th January, 1991. Accordingly, an offer of appointment was issued to the applicant after completing pre-appointment formalities with the applicant's parent office vide Films Division letter dated 15th October, 1991 directing him to report for duty at Bombay by 1st November, 1991 at the latest. The applicant while accepting the offer, informed vide his letter dated 28.10.91 that on being relieved by his parent office, i.e. Indian Grain Storage, Hapur (U.P.), he would join duty. Thereafter the Films Division pursued the matter with the applicant's parent office vide telegrams dated 7.11.1991, 3.12.1991, 23.12.1991, 2.1.1992 and 23.1.1992. The applicant's parent office issued office order dated 17.1.1992 according to which the applicant was to be relieved of his duties on 24th January, 1992 to enable him to join duties as Branch Manager, Films Division, Bombay. However, in the meantime, the applicant's mother fell down and sustained fracture. Therefore, vide his letter dated 17.1.1992 the applicant requested for initial posting at Lucknow for six months. The Films Division also sent him a telegram dated 10.2.1992 to join his duty at Bombay. The applicant kept on requesting to be posted at Lucknow. As his request could not be acceded to, the applicant was informed on 4.3.1992 that his posting at Lucknow was not possible and he should, therefore, join duty at Bombay by 10th March, 1992, failing which, his appointment was likely to be cancelled. The applicant failed to join duty on 10th March, 1992. So another telegram was sent to him on 25.3.1992 to join duty by 30.3.1992. Since the

applicant failed to report for duty by that date, his offer of appointment was cancelled vide the impugned letter dated 10.4.1992. The respondents also initiated further action to fill up the vacancy.

3. Thereafter applicant made representations to the Ministry of Information & Broadcasting for his posting at Lucknow and not to cancel his appointment order. At one stage the Films Division took up the matter with the UPSC as per the directives of the Ministry of Information & Broadcasting for revival of the candidature of the applicant. However, the UPSC turned down the request on the ground that the revival proposal had been received after three years of selection. The Ministry of Information & Broadcasting again made a request to the UPSC to reconsider the matter on 24.11.1992, but it was not agreed to. The applicant was, therefore, informed vide letter dated 1st January, 1993 that his request could not be granted.

4. It is the case of the applicant that due to an accident of his mother and another accident to himself he had been compelled to seek initial posting for six months at Lucknow. At one stage the Ministry of Information & Broadcasting had considered his request favourably but the same could not materialise. The Ministry should, therefore, have revived the offer of appointment to him when his domestic problems had been over. He had also represented to the UPSC. The learned counsel for the applicant also submits that normally the total period granted including the extension during which the offer of appointment can be kept open shall not exceed a period of nine months. This is as per the office memorandum dated

6th June, 1978 of the Department of Personnel & A.R. The applicant's grievance is that he was not allowed even the period of nine months which is permissible.

5. The learned counsel for the respondents contends that the respondents have considered the request of the applicant sympathetically and they provided several opportunities to the applicant to join his posting. According to para (iv) of the O.M. dated 6th June, 1978 of the Department of Personnel & A.R. an offer of appointment which has lapsed should not ordinarily be revived later except in exceptional circumstances and on grounds of public interest. The Commission, i.e. the UPSC, should in all cases be consulted before such offers are revived. The respondents, therefore, consulted the UPSC but the UPSC did not agree to revive the offer of appointment to the applicant. The respondents further went to the extent of approaching the UPSC once again to reconsider the matter. In spite of that the UPSC did not agree. The respondents had no other alternative but to cancel the appointment order. The appointment could not be kept open indefinitely. The applicant himself dilly-dallied in joining the duties by the due date.

6. Heard the counsel for both the applicant and the respondents. It is unfortunate that the applicant could not join immediately on receipt of offer of appointment because his mother had a fracture just around the time he was relieved by his parent office on 24.1.1992. The delay is, therefore, understandable. He could have asked for extension of time for joining instead he asked for an initial posting at Lucknow for a period of six months.

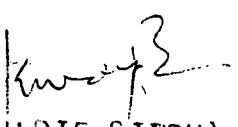
The applicant was given several opportunities to join. He was sent a telegram on 4.3.92 to join by 10.3.1992 at Bombay, rejecting his request for posting at Lucknow. He has not denied having received the telegram. He could have joined then. But he prolonged. He says that he received the post copy only of the last telegram dated 25.3.1992 on 6.4.1992 and so could not have joined by 30.3.1992. He also met with an accident on 26.3.1992. Instead of sending a letter on 10.4.1992 he could have sent a telegram in return on 6.4.1992 itself. Till 6.4.1992 the applicant kept trying for Lucknow instead of asking for extension of time. The applicant has himself to blame for that. The respondents cannot be faulted. It is to be noted that even after his appointment was cancelled he was still after a posting at Lucknow. His entire thrust was on Lucknow.

7. Rules do provide for keeping the offer of appointment open upto a maximum of nine months. It is only if Ministries or departments are satisfied about the reasons that such extension of time to report can be considered. It is not mandatory. The applicant was given sufficient time of five months.

8. The respondents have all along been with the applicant and pursued the matter of revival of his appointment offer with UPSC and also tried to accommodate him at Lucknow but could not help it.

9. In the circumstances, we are of the view that the applicant's case is devoid of merit. The O.A. is, therefore, dismissed. No costs.


(SMT. SHANTA SHASTRI)
MEMBER (A)


(KULDIP SINGH)
MEMBER (B)