

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(10)

O.A./~~XXX~~ No. 2465/1995 with Decided on: 8.4.97
other connected OAs

S.K. Tiwari & OthersApplicant(s)

(By Shri R.K. Kamal and S.K. Gupta Advocate)

Versus

U.O.I. & OthersRespondent(s)

(By Shri M.M. Sudan, V.K. Mehta Advocate)
and Arun Bhardwaj

CORAM:

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

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter *y/s*
2. Whether to be circulated to the other Benches of the Tribunal? *X*

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(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2465 of 1995

with

O.A. No. 1360 of 1996

O.A. 2532 of 1996

O.A. No. 1154 of 1996

O.A. 1323 of 1996

O.A. No. 861 of 1996

New Delhi this the 8th day of April, 1997

HON'BLE MR. A.V. HARIDASAN, VICE-CHAIRMAN(J)

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

O.A. No. 2465 of 1995

1. S.K. Tiwari
S/o Late Shri Inderjeet Tiwari,
R/o A-116 Jagat Puri,
Delhi-110 093.
2. Rudra Pal Sharma
S/o Shri Yad Ram Sharma,
R/o C-33-A, Vishwas Park,
Delhi-110 059.
3. Shree Ram
S/o Shri Chhotu Ram,
R/o RZ-71B, Palam Vihar (East),
Delhi-110 045.
4. Shahid Ali
S/o Shri Manzoor Ali,
R/o 11-ABC Colony,
Loco Colony,
Allahabad.
5. Subhash Chander Dube
S/o Shri R.L. Dube,
R/o 3/240, Vikas Nagar,
Lucknow-22.
6. Tej Bahadur Singh
S/o Shri Mahender Singh,
R/o SS-1-902, Seeta Pur Road,
Lucknow.
7. Tarkeshwar Prasad Verma
S/o Shri Ram Nagina,
R/O C/o Tej Bahadur Singh
SS-1-902 Seeta Pur Road,
Lucknow.

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8. Kishan Pal
S/o Shri Jasram,
R/o 45, Ganga Enclave,
Delhi-110 094.
9. C.K. Sharma
S/o Late Shri B.B. Shashtri,
R/o 238, Pocket-5, Sector-2,
Rohini, Delhi.
10. Balvinder Singh
S/o Shri M.S. Saini,
R/o B-816, Shastri Nagar,
Delhi-110 052.
11. Jaishankar Pd.
S/o Shri Narain Pd.,
R/o 955, Timarpur,
Delhi.
12. Shiv Kumar Sharma
S/o Late Shri Jai Kishan Sharma,
R/o 725 Narela,
Delhi-110 040.
13. Som Nath Chuchra
S/o Shri Jiwan Dass Chuchra,
R/o 351/8, 81-3 Dharam Pura,
Bahadurgarh.
14. Anil Kumar Rustogi
S/o Late Shri Rameshwar Dyal,
R/o 80/1 East Azad Nagar,
Delhi-110 051.
15. S.K. Singh
S/o Shri Kishi Raj Singh,
R/o 242, Khari Khan Village,
Delhi.
16. Naubahar Singh
S/o Late Shri Shankar Singh,
R/o 11/82 D.Puri Extension,
Delhi.
17. I.D. Singh
S/o Shri Shreeram Singh,
R/o Railway Station Road,
Arthala, M. Bad.
18. N.K. Dhall
S/o Shri Agyaram Dhall,
R/o 6/156, Jawahar Park,
Saharanpur, Gurgaon.

19. Lala Ram
 S/o Shri Hari Ram,
 R/o B-497 Shastri Nagar,
 Delhi-110 007.

20. Mahesh Pal Sharma
 S/o Shri Ganga Ram Sharma,
 R/o C/o B-497, Shastri Nagar,
 Delhi-110 007.

21. Suresh Chander
 S/o Shri Umrao Singh,
 R/o 86-B Gulabi Bagh,
 Delhi-110 007.

22. S.C. Kapoor
 S/o Shri Radhe Ram,
 R/o 470, Pratap Nagar,
 Gurgaon.

23. Girish Chander
 S/o Late Shri Prithvi Chander,
 R/o B-9/63-A Udiagiri,
 NOIDA.

24. Madan Pal
 S/o Shri Khacheru Singh,
 R/o RZ-87, Gali No.14-A,
 Durga Park,
 Delhi-110 045.

25. Satpal Sharma
 S/o Shri Ram Singh,
 R/o B-105 Ganesh Nagar,
 Delhi-110 018.

26. Vina Subedar
 S/o Shri Kant Subedar,
 R/o LP-55A, Morya Enclave,
 Delhi-110 034.

27. Anil Kumar Sharma
 S/o Shri H.C. Sharma,
 R/o Gali No.5-C, Near Shiv Mandir,
 Murad Nagar.

28. S.Y. Khan
 S/o Shri Shafagat Yar Khan,
 R/o YW Manzil,
 Old City,
 Bareilly.

....Applicants

O.A. No. 1360 of 1996

1. Naresh Kumar Ahuja
 S/o Late Shri R.L. Ahuja,
 R/o 2712-B, Gali NO.4,
 Bihari Colony,
 Shahdara,
 Delhi-110 032.

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2. Narender Kumar Gupta
S/o Late Shri Pratap Singh Gupta,
R/o 9, PNT Quarters,
Old Secretariat,
Civil Lines,
Delhi-110 054.
3. Vinod Kumar
S/o Shri Ram Kishan Sharma,
R/o 1562/1, Pana Mampur, Narela,
Delhi-110 040.
4. Smt. Krishna Gupta
W/o Shri G.P. Gupta,
R/o 3H-158, Nehru Nagar,
Ghaziabad.
5. Akhilesh Kumar
S/o Shri Murlidhar Tripathi,
R/o 348, Gali No.6,
Durga Puri Extension,
Nand Nagri,
Delhi-110 093.
6. Shri B.N. Shukla
working as Junior Accounts Officer
with DOT (DGM (East)),
MTNL, New Delhi.
7. Shiv Kumar
S/o Shri Birahm Singh,
R/o 389, Dabri Village,
New Delhi-110 062.
8. Harshwardhan Sharma
S/o Late Shri C.S. Sharma,
R/o B-2/80 Ashok Vihar,
Phase-II,
Delhi-110052.
9. Chandra Shekhar
S/o Late Shri T.L. Chawla,
R/o D-405, Tagore Garden Extension,
New Delhi-110 027.
10. Charanjit Rewani
S/o Shri Net Ram Rewani,
R/o Cb/67-B, DDA Flats,
Hari Nagar,
New Delhi-110 064.
11. Sumer Chand
S/o Shri Kashmiri Lal,
R/o V.P.O. Kutail,
District Karnal,
HARYANA.

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12. Kamal Kishore
S/o Shri Om Parkash,
R/o J-111 Vishnu Garden,
New Delhi-110 018.

13. Madan Mohan
S/o Shri Mani Ram,
R/o 288, Pocket-6, Sector-2,
Rohini,
Delhi-110 085.

14. Ashok Kumar Sharma
S/o Shri Bishambhar Dayal Sharma,
R/o New Colony, House No.6/81,
V.P.O. Haly Mandi,
District Gurgaon,
Haryana.

15. Shakuntla Chaddha
W/o Shri Anil Bhushan Chaddha,
R/o Flat No.110, Plot No.19,
Sector-9,
Kadambari,
Rohini,
Delhi.

16. Ashok Kumar
S/o Shri Bhagwan DAss,
R/o J-4, Khanna Colony,
Sonipat.

17. Bhushan Kumar Popli
S/o Late Shri Shiv Narain,
R/o 2060, New Housing Board Colony,
Sector-1,
Rohtak.

18. Shri S.P. Mudgal
S/o Shri Chandan Lal,
R/o V.P.O. Kassar,
District Rohtak,
Haryana.

19. Shiv Kumar
S/o Shri Tulsi Ram,
R/o 6/372, R.K. Puram,
New Delhi-110 022.

20. Raj Kumar Chawla
S/o Shri Amrit Dass Chawla,
R/o 414/24, Arjun Nagar,
Opposite Raj Cinema,
Rohtak,
Haryana.

21. Vidya Nand Chauhan
S/o Shri P.R. Chauhan ...Applicants

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O.A. No. 2532 of 1996
M.A. No. 2520 of 1996

1. Rajinder Pal
S/o Shri Chand Ram,
R/o 404/1212, Pocket No.2,
Paschim Puri,
New Delhi-110 063.
2. O.K. Dahiya
S/o Shri Daya Ram,
R/o Village & P.O. Mandaura
via Nahri,
District Sonepat.
3. Dashrath Ram
S/o Shri Devi Charan Ram,
R/o 565/Sector-6,
R.K. Puram,
New Delhi.

...Applicants

O.A. No. 1154 of 1996

1. Shri Pradeep Kumar
S/o Shri J.P. Saxena,
R/o E-3141, Rajaji Puram,
Lucknow.
2. Shri Y.K. Srivastava
S/o Late Shri Sehdev Prasad Srivastava,
R/o T-2/31,
P&T Colony,
Mahanagar,
Lucknow.
3. Shri R.K. Singh
S/o Shri S. Singh,
R/o 113, Chander Lok,
Lucknow.
4. Shri S.N. Gupta
S/o Late Shri C.P. Gupta,
R/o Quarter No.11,
P&T Colony,
Mukbool Alam Road,
Varanasi,
U.P.
5. H.P. Verma
S/o Shri Babu Ram Verma,
R/o Mohalla Laxman Puri,
Bara Balki,
U.P.

6. Merhu Lal
 S/o Shri Raj Pal,
 R/o Mastan Ka Purva,
 Sahadat Ganj,
 Faizabad,
 U.P. ...Applicants

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O.A. No. 1323 of 1996

M.A. No. 1274 of 1996

1. Rameshwar Dass
 S/o Shri Ram Kishan,
 R/o 161/21, Rishi Nagar,
 Rohtak.
2. D.S. Rawat
 S/o Late Shri Arjun Singh,
 R/o B/3/261,
 MTNL Staff Quarters,
 Sector-34,
 NOIDA.
3. Om Parkash
 S/o Shri Rai Singh,
 R/o 514, Rajpur Khurd,
 New Delhi-110 068.
4. Shri J.N. Kaushik
 S/o Shri N.R. Kaushik,
 R/o B-47, Badli Extension,
 Delhi-110 042.
5. Navneet Singh
 S/o Shri S. Hardev Singh,
 R/o 191 Avtar Enclave,
 Paschim Vihar,
 New Delhi.
6. Veena Arya
 W/o Shri Bhartenda Arya,
 R/o 33/1, Jangpura,
 Pant Nagar,
 New Delhi.
7. Kanwar Pal Singh
 S/o Late Shri Braham Singh,
 R/o House No.1/5563,
 Gali No.16, Babir Nagar Extension,
 Shahdara,
 Delhi-110 032.

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8. Chamail kSingh Guleria
S/o Shri Arjun Singh Guleria,
R/o B-206, Brij Vihar,
Ghaziabad (U.P.).
9. Krishan Pal
S/o Shri Dharam Singh,
R/o 7/68, Sector-II, Rajender Nagar,
Shahibabad District Ghaziabad (U.P.)
10. Kashi Prasad
S/o Shri Ram Surat Ram,
R/o RZ/P3-183, New Roshanpura Extension,
Najafgarh,
New Delhi-110 043.
11. Om Prakash Verma
S/o Late Shri Chhotah Lal,
R/o House No.FCA 631, S.G.M. Nagar,
NIT Faridabad-121 001.
12. Ashok Kumar
S/o Late Shri Nikku Ram,
R/o A-88A, Madipur Slum Quarters,
New Delhi-110 063.
13. Pramod Raj
S/o Late Shri Dhanam Bir,
R/o A4/113, DDA Flats,
Near Manav Apartment,
Paschim Vihar,
New Delhi.
14. Devender Singh
S/o Late Shri Giani RAM,
R/o K-1419, Jahangir Puri,
Delhi-110 033.
15. Mahender Pal Sharma
S/o Shri Lal Chand Sharma,
R/o A-1/81, Chankya Place,
Pankha Road,
Janak Puri,
New Delhi-110 059.
16. B.D. Goswami
S/o Late Shri S.D. Goswami,
R/o H-97, Sector-23,
Sanjay Nagar,
Ghaziabad.
17. Nathu Singh Lamba
S/o Shri Sheo Chand,
R/o House No.248, Village Khaira,
New Delhi-110 043.

18. Jagdish Singh Gautam
 S/o Shri Madan Mohan Singh Gautam,
 R/o LIG-268, Avash Vikash,
 Hildwani District,
 Nainital (U.P.). (9) ...Applicants

O.A. No. 861 of 1996

1. Kanwar Singh
 S/o Shri Hari Singh,
 R/o V. & P.O. Bodia,
 Kamlapur,
 Tehsil and District Rewari.

2. Harkishan Sharma
 S/o Shri Sultan Singh,
 Near I.T.I. Patuadi Road,
 Rewari.

3. Suresh Chand
 S/o Shri Duli Chand,
 C/o Shri Kanwar Singh. ...Applicants

Shri R.K. Kamal, Sr. Counsel with Shri S.K. Gupta,
 Counsel for the applicants in all the above cases.

Versus

1. Union of India through
 Secretary,
 Ministry of Communication,
 Ashoka Road,
 Sanchar Bhawan,
 New Delhi-110 001.

2. The Chairman,
 Telecommunication Commission,
 Department of Telecommunication,
 Sanchar Bhawan,
 New Delhi-110 001.

3. The Secretary,
 Department of Posts,
 Ministry of Communication,
 Dak Tar Bhawan,
 New Delhi-110 001.

4. Member (Finance),
 Department of Telecommunication,
 Sanchar Bhawan,
 New Delhi-110 001. ...Respondents

S/Shri M.M. Sudan, V.K. Mehta and Arun Bhardwaj,
 Counsel for the respondents.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

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The applicants belonging to the Department of Posts and on deputation to the Department of Telecommunication have challenged the decision of the respondent No.3 to repatriate them to their parent Department. These applications have been heard together and are disposed of by this common order.

2. To put the facts briefly, the applicants were taken on deputation under the respondents when there was acute shortage of qualified Junior Accounts Officer in the Department of Telecommunication and the applicants joined in response to this demand in November, 1992. It was made clear to them that their posting as Junior Accounts Officer with the respondents was purely temporary on deputation basis and the applicants will have no claim of their seniority in the parent department in respect of the service rendered in the Delhi Government in the Telecommunication nor will have any claim for absorption in the Telecom Department. The applicants have been serving in the Department of Telecommunication ever since. In September, 1995, the respondents issued an order of repatriation placing the applicants' services at the disposal of their parent department. The applicants contend that this action is arbitrary as they are continuing in the department on the understanding that they shall be considered for absorption. It is alleged by the applicants that the respondents

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unilaterally took the decision in the meeting held in December, 1995 under the Chairmanship of the Member (Finance), respondent No.3, that no JAO on deputation with DOT would be absorbed and that the few deputationists whose repatriation orders were recently deferred would be repatriated by March, 1996. The applicants contend that this decision was taken without hearing their case for their continued deputation/ permanent absorption. On their being ordered to be repatriated, they have filed this application.

3. The main thrust of the applicants' contention is that on an earlier occasion one of the senior officials of the respondents, namely, the Senior Deputy Director General (Finance) decided that the qualified candidates among the officials on deputation would be absorbed as Junior Accounts Officer in the Department of Telecommunication. In support of this, they have produced the Minutes of the meeting held in Chamber of the aforesaid official on 16.5.94. In view of this hope generated as a result of this decision and also in the light of the clarification given by respondents vide their letter dated 21.4.93 (Annexure3), making the JAO(Telecom) Examination open to employees of Department of Posts also, and wherein it was indicated that final decision to take JAOs on permanent absorption basis was pending, the applicants contend that the respondents had subsequently backtracked and decided to repatriate them on the basis of the

decision taken in the subsequent meeting at the level of the Member Finance. They have also maintained that they have the necessary qualifications as they have passed the necessary departmental examination in their parent department and have worked so long in the department of Telecommunication and their sudden repatriation would adversely affect their interest and they had also been repatriated without adequate notice. The grounds taken by the applicants are that:-

- (i) the decision of DOT was arbitrary and violative and whimsical, as the applicants had qualified in the examination for the post of JAO;
- (ii) the respondents continued them on deputation beyond normal tenure of deputation on the understanding of subsequent absorption;
- (iii) a senior official had in a formal meeting decided to consider the absorption and the respondent could not subsequently go back on their decision; and
- (iv) repatriation of the applicants after their having qualified in the examination would amount to lowering of the status of the applicants.

4. The respondents, while admitting that the applicants were taken on deputation basis due to the fact that sufficient number of qualified candidates were not available within the Department of Telecommunication, have submitted that the applicants who were waiting for promotion in their parent department had opted to come as JAO in the

Department of Telecommunication as their turn for promotion in their parent department had not come. (23)
Besides, the applicants had qualified in the departmental examination for JAO Part-II with the postal syllabus on their own volition and had a legitimate right in their department as JAO only and maintained that syllabus are not interchangeable between the Department of Telecommunication and Department of Posts. Although at one stage there was some proposal to make suitable provision in the Recruitment Rules to fill up the posts of JAO by direct recruitment and/permantly absorbing the JAOs working on deputation, the Recruitment Rules were not amended and this had to be given up as on the basis of the result of the JAO PartII examination conducted within the department of Telecommunication in the month of August, 1994, a large number of candidates became available and with the availability of large number of candidates within the department of Telecommunication itself, the shortage in the cadre of JAO was wiped out and because of this, a decision was taken not to absorb the JAOs who are on deputation from the Department of Posts. After considering all aspects of the matter, the Cadre Controlling Authority, namely, Member (Finance) decided that the deputationists had to be repatriated to their parent cadre. They have also submitted that with the availability of larger number of departmental candidates who have qualified in the JAO Part-II examination, there will be surplus candidates within the department itself for

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being appointed as JAO and, therefore, it would not be possible for the department of Telecommunication to absorb any other person taken from the other department. They contended that the deputationists had no right for permanent absorption in the borrowing department. Besides even at the time of taking them on deputation it was made clear to them that they would have no claim for absorption in the department of Telecommunication. The decision to repatriate them had been taken keeping in view the requirement of the service and also with consultation with the service Association and in the overall interest of the service. Such a decision cannot under any circumstances be treated as violative of any provisions of the Constitution or principles of natural justice.

5. We have heard the learned counsel for the parties and have perused the record.

6. It is an admitted position that the department of Telecommunication filled up the posts of JAO on deputation basis inviting volunteers from other organisations including Department of Posts. The period of deputation was initially for a period of one year but was likely to be extended upto 3 years. On the basis of this, the applicants joined the deputation post. The respondents, i.e. the Department of Telecommunication while issuing orders posting them on deputation basis clearly provided that the deputationists would not have any claim of seniority in the parent cadre in respect of the service rendered in the Department of

Telecommunication nor would have any right for permanent absorption in the Department of Telecommunication. It is also an admitted position that the applicants had given such a declaration that they would not have any claim as aforesaid. Coming to the grounds taken by the applicants, we are of the considered view that the decision of the borrowing department to repatriate the deputationists back to their parent department, cannot be considered to be arbitrary or illegal. The deputationists, as a rule, have no vested right for absorption in the posts of the borrowing department. On the ground that the respondents have continued them beyond the normal period of deputation and they cannot be repatriated after being allowed to continue, we hold that this is also not an acceptable contention. It was open to the applicants to seek reversion to their parent cadre if they so desired. From the averments made by the respondents it is clear that some of the applicants had, in fact, been benefited by continuing on deputation as their turn for promotion in their parent cadre was not forthcoming and it was advantageous for them to continue on deputation. Regarding the third ground that some senior official of the respondents had in a formal meeting agreed to consider their case for absorption and therefore, the respondents could not go back from this decision, we are of the view that this contention is not tenable. The learned counsel for

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the applicant referred to some Circular dated 15.1.1974 which gives procedure for keeping a note of the discussions and formal minutes of the meeting held at the level of DDG. This by itself does not in our view indicate that the decision taken even at the senior level of the senior DDG can be construed as a final decision of the department. The competent authority who is stated to be the cadre controlling authority had decided subsequently that the deputationists have to be repatriated. We are satisfied that the Department of Telecommunication had acted in a bona fide manner and taking into account the interest of the service and availability of the candidates within their own department for filling up the posts of JAO in their own cadre had found it difficult to continue the deputationists and, therefore, they had decided to repatriate them to their parent department. and we do not find anything irregular in the decision of the respondents.

7. The contention of the applicants that the repatriation will amount to lowering of the status in their parent department is also not tenable. The deputationists have no vested right to continue in the deputation posts and when they are repatriated, they have to take the original place according to the seniority in the cadre to which they belong in the parent department and, therefore, this ground is also not acceptable. The applicants cannot have legitimate grievance that the respondents have not

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amended the Recruitment Rules to provide for absorption of deputationists even if circumstances existed at certain time when this was considered by the respondents. It would not be correct for the respondents to overlook the fact that the department had to take into account the exigencies of service and the availability of internal candidates for manning the posts of JAO. In the context of surplus candidates available within the department itself to man these posts in the department, it is only reasonable that the respondents have decided to repatriate the applicants, and they cannot have any grievance over this and the power exercised by the respondents in repatriating the applicants to their parent department cannot be said to have resulted in any injustice or hardship to anyone and this power is also not exercised on extraneous consideration or in a mala fide manner. So long as this power is exercised in an equitable manner by the respondents, the Courts or Tribunals should not interfere with such exercise of power by the respondents. Further, deputationists can be reverted to parent cadre at any time and do not get any right to be absorbed in the deputation posts, as held by Hon'ble Supreme Court in *Ratilal B. Soni Vs. State of Gujarat*,

(1991) 15 ATC 857.

8. In the facts and circumstances of the case and in the light of the discussion above, we do not find any ground to interfere with the impugned

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orders of the respondents. We see no merit in these applications and they are accordingly dismissed.

In the circumstances there shall be no order as to costs.

Let a copy of this order be placed in all the case files.

(K. MUTHUKUMAR)
MEMBER (A)

(A.V. HARIDASAN)
VICE CHAIRMAN

Rakesh

Attested
Aslawal
08/9/97

9th