

Central Administrative Tribunal
Principal Bench: New Delhi

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OA 2679/97

New Delhi this 11th day of December 1997.

Hon'ble Mr R.K.Ahooja, Member (A)

1. All India Tourist Officers Association through its Vice President C-1 Hutmants Dalhousie Road New Delhi - 110 011.
2. Shri G. Kanjilal S/o Late Shri K.L.Kanjilal R/o D-708 Chittaranjan Park New Delhi - 110 019. ...Applicants.

(By advocate: Sh. V.K.Rao)

Versus

UNION OF INDIA THROUGH

1. Secretary Department of Tourism Ministry of Tourism & Civil Aviation Transport Bhawan 1, Sansad Marg New Delhi - 110 001.
2. Director General (Tourism) Department of Tourism 1, Sansad Marg New Delhi - 110 001.
3. Ms.P.Sivakami Regional Director Tourism Office, Tamil Nadu 154, Anna Salai Chennai - 600 002. ...Respondents.

(By advocate: Sh. S.M.Arif)
Sh. Sanjay R. Hegde for respondent No.3)

O R D E R

By Mr R.K.Ahooja, Member (A)

With the consent of the parties on both sides, this OA is disposed of at the admission stage.

2. Applicants are All India Tourist Officers Association through its Vice President, and ~~Deputy~~ Deputy Director General, Department of Tourism.

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3. The grievance of the applicants is against the posting of respondent No.3 Ms. P.Sivakami, Regional Director, Tourism Office, Govt.of Tamil Nadu, as Regional Director, Tourism Office, Tokyo, and Mr Suman Sharma who has not been impleaded, as Regional Director, Tourism Office, Frankfurt, Germany, respectively. The case of the applicants briefly is that respondent No.3 Ms P.Sivakami is being posted abroad, overlooking all the eligible officers within the Tourism Department who are much better eqipped for appointment abroad. They allege that Ms P.Sivakami who is an IAS officer of Tamil Nadu cadre and who has come on deputation to the Govt. of India Tourism Office for a period of four years w.e.f. 12.11.1995 was neither eligible to come on deputation nor is she eligible for being posted as Regional Director, Tokyo. So far as the deputation of respondent No.3 to the Govt. of India, Department of Tourism in 1995 is concerned, I do not consider it necessary to go into this aspect since the said deputation has neither been challenged nor is it related to any of the reliefs sought for by the applicants. As regards her deputation to Tokyo, the applicants say that she was holding the rank of Joint Secretary to the Govt. of India and on that basis has been equated as Counsellor in Indian Embassy in Tokyo for the purpose of foreign allowances and as such her posting would entail higher expenditure which could otherwise be saved by posting an officer in the grade of Regional

Director. It is also stated that as respondent No.3 came on deputation to the Govt. of India, Tourism Department for a period of four years of which nearly two years have already been exhausted, she cannot be sent out to Tokyo for a period of three years as it will be contrary to her initial deputation period. The applicants point out that important postings such as Regional Director require comprehensive knowledge of tourism and the experience gained through such postings should also be available to the Tourism Department after retirement. The induction of deputationists such as respondent No.3 who has spent only a brief period in the Tourism Office and who would be reverted to her own cadre on completion of foreign posting would not be in public interest. The applicants also submit that the selection and posting of Ms P. Sivakami and Mr Suman Sharma at Tokyo and Frankfurt respectively is contrary to the Revised Guidelines For Foreign Postings ((Annexure A-3)) as other eligible departmental officers have not been considered nor a meeting of the Interview Committee has been convened to determine the eligibility of respondent No.3 and Mr Suman Sharma. For these reasons, the applicants have sought a direction to the respondents to immediately convene a meeting of the Interview Committee as per the revised guidelines and consider all the eligible

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candidates for posting at Tourism Offices at Tokyo and Frankfurt respectively and appoint applicant No.2 and other eligible officers of the Department on being found fit by the Interview Committee to such foreign based offices. By way of interim relief, the applicants have also sought a direction to restrain the respondents from posting respondent No.3 and Mr Suman Sharma at Tourist Offices at Tokyo and Frankfurt.

4. Notices were issued to the respondents and they have filed replies to the main reliefs as well as the interim relief. On 24.11.1997, by way of an ad-interim measure, the respondents were directed to maintain status quo as of that date regarding the posting of respondent No.3. Respondent No.3 has also filed a reply.

5. Respondents 1 & 2 in their reply have denied that the posting of respondent No.3 is contrary to the revised guidelines (Annexure A-3). They have pointed out that respondent No.3 was duly selected for the post of Deputy Director General/Regional Director by the Union Public Service Commission. She has also been working in the Tourism Office, Chennai w.e.f. 12.11.1995. Prior to that, she also had experience in tourism for nearly three years as Director of Tourism & Managing Director, Tamil Nadu Tourism Development Corporation. The post of Regional Director in the Govt. of India Tourism Office, Tokyo (Japan) has been lying vacant since

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5.5.1996 and there was an urgent need to fill up the vacancy. It has also been stated that neither respondent No.2, namely Sh. G. Kanjilal nor other two officers mentioned in the application namely S/Shri K.R. Arya and Ram P.Chopra were eligible to be considered for posting to the Tourism Offices as they were officiating in the post of Deputy Director General on ad-hoc basis and applicant No.2 had also not completed his cooling off period after his return from his Paris posting. Respondent No.3 in her reply has referred to her experiences and achievements in tourism both in the State and in the Centre. She has also pointed out that she had obtained a certificate in Japanese Language Course. It is also mentioned by her that on receipt of the posting orders, she had made all arrangements and incurred considerable expenditure in preparation for posting to Tokyo.

6. I have gone through the pleadings including the departmental file on the subject. Having heard the counsel, I find no merit in the application. Respondent No.3 has admittedly been selected for the post of Deputy Director General through Union Public Service Commission in accordance with prescribed rules. The guidelines for ~~foreign~~ posting under the Heading Minimum Experience for Regional Directors are based on the following qualifications:

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"(i) For the purpose of foreign posting, it would be essential for the departmental Deputy Director General to have a minimum service of 2 years in that grade. (Ad-hoc service in that grade would also be counted towards this service).

(ii) For foreign posting of a Regional Director whose services are secured on deputation basis, it would be essential that the eligible candidates must have a minimum experience of two years in the travel/tourism field in any organisation/State Government, etc. prior to being considered for foreign posting.

OR

The candidate must have a minimum experience of six months in the Department of Tourism, Government of India, so as to gain sufficient familiarity with the functioning of the Department of Tourism and thereby acquire minimum tourism expertise."

7. Having come to the Government of India, Tourism Department in November 1994, respondent No.3 has obviously got the minimum experience of six months at the time of her selection. Her claim of having worked for nearly three years under the State Government as Director of Tourism and Managing Director of Tamil Nadu Tourism Development Corporation has not been controverted. Thus, there can be no doubt regarding the qualifications of respondent No.3 to be considered for posting as Regional Director in Tourism Office, Tokyo under the revised guidelines in force.

8. Secondly, applicant No.2 and other two officers namely, S/Shri K.R.Arya and Ram P. Chopra

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were at the relevant time not qualified to be considered for the post of Regional Director at Tokyo in terms of the above mentioned guidelines. The guidelines para 'D' clarifies that "only regular officials/officers (and not working in ad-hoc capacity) would be considered for foreign postings in that status of post..."). The Departmental File No.A-22012(4)/94-A-I.Pt.I on foreign postings of officers shows that when the approval of the Minister was obtained on 28.2.1997, neither applicant No.2 nor his departmental colleagues were regularised as Deputy Director General. I do not agree with the contention of Shri V.K.Rao, learned counsel for the applicants that by the time orders of posting of respondent No.3 were issued on 14.11.1997, applicant No.2 had already been regularised as Deputy Director General w.e.f. 1.10.1997 and thus had become eligible for consideration. The crucial point in time is the date of consideration and not the date of issue of official orders after the selection has been made. Since none of the departmental candidates was eligible at the time of processing of the case for selection of an incumbent for the post of Regional Director, Tokyo, they could not be considered merely in expectation of their being regularised at a future date. I also find that applicant No.2 Sh. G. Kanjilal had returned from his posting abroad in 1995 and as per the guidelines, the cooling off period has been fixed at three years. The three departmental officers even if they were otherwise eligible could not claim preference because all of them had earlier been posted abroad.

9. It has been argued by the learned counsel for the applicants that there has been a grave omission in the procedure for selection of respondent No.3 in as much as no meeting of the interview committee has been held. A perusal of the departmental file shows that at the time of the selection, only two officers were found eligible, namely, respondent No.3 and Mr Suman Sharma. It was submitted on behalf of the applicants that even if, for the sake of argument, it was accepted that these were the only two eligible officers, when the selection was for Tokyo, then the Interview Committee should have examined the suitability of both respondent No.3 and Mr Suman Sharma to decide as to which one amongst the two was suitable for Tokyo. This argument cannot hold water. The applicants themselves had no locus standi as they were not eligible to be considered. They cannot speak on behalf of Mr Suman Sharma who is not a party on either side in the present proceedings. On the other hand, the applicants themselves allege that the consideration was for two posts and Mr Suman Sharma has been selected for the second post at Frankfurt.

10. It is correct that as per the records of the department, no meeting of the Interview Committee had taken place. I do not consider that this omission is fatal to the selection of respondent No.3 for two reasons. Firstly, as mentioned earlier, there were only two eligible candidates for posting abroad. Secondly, the Interview Committee consisted of the Director General of Tourism, Additional Director General of Tourism and Financial Advisor. It was in

fact the recommendations made by the Director General of Tourism who is also the Chairman of the Interview Committee which was approved in respect of respondent No.3 by the Minister. As the interest of none of the applicants has been adversely affected, the fact of non-convening of the Interview Committee, in my view, cannot be a source of grievance for the applicants.

11. As regards the prayer against the selection of Mr Suman Sharma, no decision is required since he is neither a party to these proceedings nor any orders of his posting have been produced.

12. In the light of above discussion, I do not find any ground for interference. The OA is accordingly dismissed. The interim order already passed stands vacated. There will be no order as to costs.

R.K. Ahuja
(R.K. Ahuja)

Member (A)

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