

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 2149/89

New Delhi, dated the 4th May, 1994

Hon'ble Sh. B.N. Choundiyal, Member(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri P.L. Premi,
R/o House No.V-267,
Arvind Mohalla Khajoor,
Wali Gali No.11, Delhi-110053

.... Applicant

(None for the applicant)

Versus

1. Secretary to the Govt.of India,
Ministry of Surface Transport,
Transport Bhawan-1, Sansad Marg,
New Delhi-1
2. Director,
Inland Water Transport Directorate,
Ministry of Surface Transport,
Transport Bhawan,1, Sansad Marg,
New Delhi-1
3. Secretary to the Govt.of India,
Ministry of Personnel, Public Grievances
and Pensions, Deptt.of Personnel & Training,
New Delhi-1

.... Respondents

(By advocate Sh.Madhav Panikar)

ORDER(ORAL)

(Hon'ble Sh. B.N. Choundiyal, Member (A))

In this O.A. Shri P.L. Premi has challenged the order dated 29.9.1989 whereby he has been transferred to the "Surface Staff Establishment" of the Ministry of Surface Transport.

2. The applicant was appointed as DC in Inland Water Directorate of Ministry of Transport and had his lien against a permanent post. His name stood at sl.06.19 of the seniority list vide order dated 3.1.1986. While working
EW

as UDC he was sent on deputation to the Inland Waterways Authority of India, WDIDA w.e.f. 30.1.1987 in terms of section 11(1) (f) of the I.W.A.T. Act., 1985. Vide order dated 31.5.89 he was relieved on that date and directed to report for duty in the Ministry of Surface Transport. On 1.6.92 he was posted to the Ship Building and Repairs section of the Ministry. He submitted representations on 5.9.89 and 7.9.89 against his transfer to Surplus Staff Cell. He prays for quashing the impugned order dated 29.9.89 for declaring him permanent UDC of I.W.T. Directorate and for restraining the respondents from transferring him to any other establishment.

3. In the counter filed by the respondents it has been clarified that section 11 of the Inland Waterways Authority of India Act, 1985, envisages taking over all assets and liabilities of Inland Water Transport Directorate on the appointed day i.e. 27.10.1986. Inland Water Transport Directorate ceased to function w.e.f. 27.10.89.

4. As per section 11(1) (f) of the Inland Waterways Authority of India Act, 1985 every employee holding any office under the central Govt. before the appointed day solely or mainly for or in connection with such affairs of the Inland Water Transport Directorate as are relevant to the functions of the authority under this Act shall be treated as on deputation with the Authority. This provision has been made mainly to

DW

safeguard the interests of the Govt.employees. Terms and conditions of the service of such employees, while on deputation, under section 11 safeguard the interest of the Govt.employees and also provides that no employees should be absorbed in the authority against his wishes. Applicant did not opt for absorption in the authority and wanted reversion to the I.W.T. Directorate whereas his lien as UDC stood abolished. The contention of the applicant that he held the lien in I.W.T. Directorate is wrong as this directorate no longer exists.

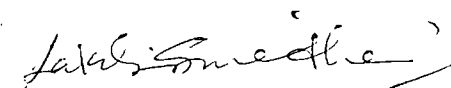
5. This case has been appearing in the regular cause list since 2.5.94, today it was fixed at serial No.8 among the 10 cases posted peremptorily for final hearing. Though called twice in the revised list, none is present on behalf of the applicant. As this is an old case of 1989. We, therefore, proceed to dispose of the O.A. on the basis of the pleadings on record as well as the submissions made by the learned counsel for the respondents.

6. It is an admitted fact that the applicant was permanent UDC in the I.W.T. Directorate, Ministry of Surface Transport. It is clear that this directorate stood abolished on 27.10.1986. Hence respondents cannot be faulted for posting him to the Surplus Staff establishment of the Ministry of Surface Transport. The applicant was given an option for absorption in the I.W.T. Directorate which he declined.

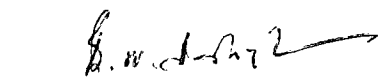
SN

It has been brought to our notice that this issue has earlier been agitated by the applicant in O.A. No. 974/89(R-127/89). Application is, therefore, barred by res judicata.

7. We hold that the applicant is not entitled to any relief and the application is hereby dismissed. No costs.


(Lakshmi Swaminathan)

Member(Judicial)


(B.N. Dhoundiyal)

Member(A)

sk