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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.648/89
New Delhi this the 24th Day of February, 1994.
Shri N.V. Krishnan, Vice-Chairman (A)
Shri B.S. Hegde, Member (J)

B.K. Syngal,
S/o Sh. G.L. Syngal,
R/o 218, Mandakini Enclave,
Alaknanda, New Delhi. ...Applicant

(By Advocate: Did not appear)

Versus

1. Union of India through
the Secretary (Communication) & DGT
Department of Communication,
Sanchar Bhawan,
New Delhi.

2. Sh. D.P. Seth,
Chief General Manager,
North East Telecom Circle,
Shillong - 793 001. ...Respondents

(By Advocate: Did not appear)

ORDER(Oral)

(Mr. N.V. Krishnan)

This case is listed at serial No.8 of today's cause list under regular matters with a note to the counsel that first 10 cases are posted peremptorily for final hearing. In the circumstances in the absence of the parties, we have perused the record of the case and we proceed to pass final orders.

2. The applicant joined service in the Department of Post and Telegraph to begin with on 11.12.64 and he was confirmed in the senior scale on 1.3.78 and subsequently promoted to the Junior Administrative Grade of the service. While so, he was sent on deputation to the International Maritime Satellite Organisation (INMARSAT) in London in the year 1982 for a period of 5 years which was to expire on 17.10.87.

3. The applicant's request to continue further on deputation in the INMARSAT was rejected and he was informed through the Director General of

that organisation that either he should return to India or resign or retire from the parent service. He was formally informed of this position by the D.O. letter dated 2.3.88 of the Telecommunications Board - the department of Post and Telegraph having been bifurcated before this date into the Department of Post and Telegraph and department of Telecommunications. Paragraph-3 of this letter is reproduced below:-

"3. On the subject of your deputation with INMARSAT, the decision of the Department in the matter has already been conveyed to you through the Director-General, INMARSAT vide letter of even number dated September 11, 1987 and Telex dated October 15, 1987. The extension of your deputation with the INMARSAT is not agreed to. You are, however, permitted to retire on the expiry of your present term of deputation i.e. 16.10.1987 and also permitted to continue with the INMARSAT as requested by you in your letter dated October 5, 1987."

4. In pursuance of this decision the applicant was formally retired w.e.f. 17.10.87 by the OM dated 4.5.88 (Annexure-2) of the department of communications which reads as follows:-

"Subject:-Voluntary retirement from service
- case of Shri B.K. Syngal,
on deputation with INMARSAT.

With reference to his letter dt 5.10.87 on the above subject, Shri B.K. Syngal, an officer of JR. Admn. Grade of Group 'A' who is on deputation with the INMARSAT, London, is permitted to retire from Government Services with effect from 17.10.87 (F/N) in accordance with the provision contained in Rule 48A of CCS (Pension) Rules.



The Government does not have any objection to the proposal of Shri B.K. Syngal to continue with INMARSAT on his retirement from Government Service."

5. The grievance of the applicant is that a DPC was held on 2.2.88 to consider promotion from Junior Administrative Grade to the Senior Administrative Grade. As a result of the recommendations of the DPC certain officers were promoted by the impugned Annexure VI order dated 17.5.88. It is alleged that persons junior to the applicant have been promoted by this order and one of them is the second respondent who has been impleaded in this OA.

6. The applicant has raised a number of grounds to challenge the manner in which the DPC was held and the decision taken therein. He has sought the following reliefs:-

"I) The applicant prays that the order dated May 1988 appointing the respondent 2 to the Senior Administrative Grade should be set aside.

II) The panel prepared by the DPC in Feb 88 should be set aside and reconsidered alongwith the applicant's ACRS of 5 years from 1982 to 1987 so that a just and fair decision can be arrived at.

III) For these purposes the Court may kindly call for records of the DPC the applicant's ACRS of relevant years alongwith those selected by the DPC held on 2.2.88 if need arises."

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7. The respondents have filed a reply contending that the applicant can have no claim. He had sought voluntary retirement w.e.f. 17.10.87. He had to make this request because this condition was given to him for continuing to remain with the foreign employer for a period in excess of the maximum period of deputation of five years. Therefore, the applicant cannot have any claim on the promotion made subsequently.

8. Having perused the records we are of the view that this application has no substance and it has to be rejected. Admittedly, the applicant sought voluntary retirement as would be clear from the Annexure-2 memorandum which refers to his letter dated 5.10.87 seeking such retirement from 17.10.87. Obviously, that retirement was sought to enable him to be absorbed permanently in the INMARSAT. This is a fact admitted by him in para 4.4 of the OA wherein he states that he has been permanently absorbed in that organisation. In other words, he sought voluntary retirement only to ensure that his prospects are not spoiled.

9. If he had been interested in serving the parent department, he should have known on 5.10.87 that vacancies in the Senior Administrative Grade were in the offing and that a selection would be made for promotion to that grade. In that event, he should have returned to India on the completion of his five years' tenure with INMARSAT, i.e., October, 1987. He did not do so. He volunteered for retirement w.e.f. 17.10.87.

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10. After that retirement has been accepted by the Government, the applicant can have no claim, whatsoever, on any vacancies in the Senior Administrative Grade that have arisen thereafter or on the manner in which those vacancies were filled up. In the circumstances, we find that it is not necessary for us to enquire into the alleged procedural irregularities in the conduct of the DPC or of the alleged illegality in the impugned Annexure VI order. We conclude that, at any rate, the applicant was not entitled for any consideration after 17.10.87. In the circumstances, we do not find any merit in this OA and accordingly it is dismissed. No costs.

B.S. HEGDE

(B.S. HEGDE)
MemberJ)

N.V. KRISHNAN
24.2.89

(N.V. KRISHNAN)
Vice-Chairman

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