

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 990 of 1989

DATE OF DECISION August 23, 1989.

Shri P.C. Misra _____ Applicant (s)

In person _____ Advocate for the Applicant (s)

Delhi Administration _____ Respondent (s)

Shri M.M. Sudan _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice Chairman, (J).

The Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes.*
2. To be referred to the Reporter or not ? *Yes.*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No.*
4. To be circulated to all Benches of the Tribunal ? *No.*

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble Mr. P.C. Jain, Member)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is an officer of the Delhi and Andaman and Nicobar Islands Civil Service, has prayed for a declaration that his posting to the post of Deputy Director (Trg.) UTCS from 1981 to 1986 could be treated as on deputation only and that the respondent be directed to pay deputation (duty) allowance as per normal rates.

2. The applicant joined the Delhi and Andaman and Nicobar Islands Civil Service (hereinafter to be referred as DANI Civil Service) on 1.5.1974. While working as Deputy Registrar, Co-operative Societies between 1979-80, he is alleged to have been falsely implicated in a corruption case on 22.4.80, and was placed under suspension. The suspension order was revoked on 18.12.80 pending the prosecution case and he was posted to an ex-cadre post

of Assistant Director (Admn. Reforms) in the first week of January, 1981. On his request for posting to a cadre post, he was posted as Deputy Director, Social Welfare, in the first week of February, 1981. He was transferred from this post and posted as Deputy Director (Training) UTCS. He worked in this post upto May, 1986.

3. The petitioner's case is that under Rule 27 of DANI Civil Services Rules, 1971, a member of the Service shall be posted to a duty post and, therefore, his posting to an ex-cadre post of Deputy Director (Training) is against the rules. As such, he should be treated as on deputation during the period of his posting as Deputy Director (Training) and he should be allowed Deputation (Duty) Allowance.

4. The respondents in / written statement have stated that it is a time-barred case and the application is not maintainable, as the claim filed by the applicant pertains to the period 1981 to 1986. They have also contended that officers of the organised cadre of DANI Civil Service when posted against an ex-cadre post within the Administration, will draw the pay of their own grade and as such their posting is not termed as 'deputation' but as on 'special duty' for administrative reasons and in the exigencies of public service. It is also stated that the DANI Civil Service Rules, 1971 do not debar the Administration from posting a cadre officer to any equivalent ex-cadre post within the Administration if the exigencies of public service so require, and that the consent of the cadre officer will be necessary only if he is posted to a post outside the Administration and not for posting to any equivalent ex-cadre post within the Administration. According to the respondents, the nature of duties and functions of the post of Deputy Director (Training) are similar to those of scheduled post of DANI Civil Service in the Administration and the claim of the applicant for payment of deputation (duty) allowance is not tenable.

5. In his rejoinder, the applicant has reiterated

(See)

5

that the representation of the applicant was considered but rejected on 20.4.1989 while the application was filed on 5.5.1989 and hence it is within the limitation period. He has also reiterated his contentions in the rejoinder as given in the Original Application.

6. We have heard the applicant in person and the learned counsel for the respondents. We have also carefully gone through the pleadings. We feel that the case can be disposed of at the admission stage itself.

7. The order in respect of which the applicant has sought relief was passed in 1981 and continued to be operated till May, 1986, whereas the applicant made a representation to the Chief Secretary, Delhi Administration, Delhi (Annexure No. I to the application) only on 8.3.1989. This representation was rejected vide Memorandum dated 20.4.1989 (Annexure No. II to the application). In his representation, he claimed deputation allowance from April, 1981 to May, 1986. The mere fact that a representation was made on 8.3.1989 and was rejected on 20.4.1989 does not mean that the limitation for the relief claimed would start running either from the date of representation or from the date of rejection thereof. As stated above, the relief prayed for in the application is regarding a declaration about his posting in April, 1981 and for payment of deputation (duty) allowance for the period April, 1981 to May, 1986. As such, the application is not maintainable under ^{the} provisions of Section 21 of the Administrative Tribunals Act, 1985, and without going into the issues raised therein on merits, we dismiss it accordingly as time-barred. There shall be no order as to costs.

(Signature)
(P.C. JAIN)
MEMBER(A)

(Signature)
(P.K. KARTHA)
VICE CHAIRMAN