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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of decision: 22.01.92.

Case No.

OA 638/88 AND
CCP 82/90

R.K. PURI

... Applicant.

VERSUS

UNION OF INDIA
THROUGH THE CHAIRMAN,
RAILWAY BOARD & OTHERS ... Respondents.

CORAM:

THE HON'BLE MR.P.K. KARTHA, VICE CHAIRMAN.

THE HON'BLE MR.D.K. CHAKRAVORTY, MEMBER(A).

For the Applicant

... Shri S.C. Gupta,
Senior Advocate with
Shri M.K. Gupta, counsel.

For the Respondents

No.1 and 3 ... Shri Inderjit Sharma, counsel.

For the respondent No.2

... Shri N.S. Mehta, counsel.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporters or not ? *Yes*

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble Mr.P.K. Kartha, Vice Chairman.)

The question whether the applicant, who belongs to the Indian Railway Traffic Service (IRTS), is to be treated on deputation from the Ministry of Railways to the India Tourism Development Corporation (ITDC) under

the Ministry of Tourism or as having been permanently absorbed in the ITDC is the bone of contention between the applicant, the Ministry of Railways (Respondents No.1 and 3) and the Ministry of Tourism. A perusal of the records clearly indicates the need for better co-ordination between the various wings of the Union of India in such cases.

2. The facts in brief are that the Minister of Tourism and Civil Aviation wrote to his counterpart on 10.8.83 to send the confidential reports of the applicant for consideration of his appointment as Vice President in the I.T.D.C. Pursuant to this, the General Manager, Northern Railway (Respondent No.3) issued an order on 19.10.83 to the effect that the applicant was spared from 19.10.83 to take up his new assignment as Vice President, ITDC, in Grade of Rs.2250-2500(RS) in terms of Railway Board's Wireless Message No.83/E(0)II/5/31 dated 17.10.83. He continued as such till 11.2.87 when the Ministry of Tourism transferred him from his post in ITDC to that of Director, Indian Institute of Tourism and Development on which post he is working even today.

3. The contention of Respondents No.1 and 3 is that the applicant is no longer their officer as he was sent to the ITDC on immediate absorption basis. The contention of Respondent No.2 is, contained in three counter affidavit by them, namely :

(i) on 24.5.88 wherein they have submitted that this Tribunal may give suitable directions to Respondents No.1 and 3 which they would in
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turn give effect to;

(ii) on 20.7.88 wherein they have stated that the applicant was still on deputation and that he would revert to the office of the Respondents No.1 and 3 on 11.1.92, and

(iii) on 27.3.89, ^{wherein} ~~they~~ have stated that the applicant cannot now be repatriated to the office of Respondents No.1 and 3.

(i)

4. The applicant has prayed ~~that~~ the respondents be directed to absorb him permanently under the Ministry of Tourism with effect from 19.10.86 or thereafter with all consequential benefits, including benefits of NBR accrued to him till that date, (ii) in the alternative, to repatriate him to his parent cadre of IRTS in the Railways. At the time of hearing of the case, he however restricted his prayer for repatriation to his parent cadre of IRTS.

5. On 3.6.88, the Tribunal passed an interim order after hearing the learned counsel of both parties to the effect that the basic pay and allowances of the applicant should be fixed on the basis of the revised pay scales of the IRTS on the basis of the Fourth Pay Commission from the date the revised pay scales have been made effective for the other members of the Service by the Ministry of Railways. Wilful disobedience to comply with the aforesaid order is the subject matter of CCP 82/90.

6. We have gone through the records of the case carefully and have considered the rival contentions.

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Both sides have relied upon numerous documents and correspondence in support of their respective contentions. It is considered unnecessary to refer to or discuss them as this application can be disposed of on the short ground that the terms and conditions of absorption or deputation of the applicant have not been issued by Respondent Nos.1 and 3.

7. According to Government of India decision in OM No.2(90)/68-BPE(GM) dated 9.11.68, Government officers deputed to Public Enterprises should be asked to exercise an option between the following alternatives, (i) permanent absorption in Public Enterprises or (ii) revert back to the parent cadre. In view of this, there should be no compulsory deputation of government officers to public sector undertakings and no officer should be sent to serve in them against his will. While in the case of top posts, the option should be exercised within one year, in the case of other posts, the option should be exercised within a period of 3 years(vide Annexure-H to the application, pages 31-33 of the Paperbook). At no point of time was the applicant asked to exercise an option to get himself permanently absorbed in the ITDC nor was his lien in government service severed or ended. After completion of 3 years of deputation, the applicant requested for repatriation to his parent cadre on which no decision was communicated to him. The applicant has not resigned from IRTS nor has he opted for absorption in ITDC.

8. In the light of the above, the application is disposed of with the following order and directions:-

(1) We hold that the applicant shall be treated to be on deputation from the Ministry of Railways to the Ministry of Tourism and Civil Aviation from 19.10.83 to date and that he is entitled to be repatriated to the Ministry of Railways which is his parent department. Respondent Nos.1 and 3 are directed to pass the necessary orders in this regard within a period of two months from the date of communication of this order.

(2) The applicant would be entitled to the fixation of his pay and allowances on the basis of the revised pay scales of the IRTS after the Fourth Pay Commission from the date the revised pay scales had been made effective for the other Members of the Service by the Ministry of Railways. The respondents are directed to issue appropriate orders to comply with this direction and release to the applicant the difference in the pay and allowances, within a period of two months from the date of communication of this order. The interim order passed on 3.6.88 is hereby made absolute.

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8. We take a serious view of the non-compliance by the respondents of the interim order passed by the Tribunal. As the main application has been disposed of by giving specific directions to them, we do not consider it necessary to proceed with the CCP to its logical conclusion.

Or

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CCP is disposed of accordingly and the notice of contempt is discharged, with the direction to the respondents to pay token costs of Rs.1000/- to the applicant. Let a copy of this order be placed in both the files. ^K

D. Chakraborty 22/1/82
(D.K. CHAKRAVORTY)
MEMBER (A)

~~22/1/82~~
(P.K. KARTHA)
VICE CHAIRMAN