

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

CA No. 880/90

DATE OF DECISION: 4.6.1990.

SHRI C.S. MUDHAR

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI K.N.R. PILLAI

ADVOCATE FOR THE APPLICANT

SHRI P.H. RAMCHANDANI

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member (A))

Shri C.S. Mudhar's application was heard on admission and interim relief today. The learned Counsel for the applicant submitted that the applicant was transferred on deputation for a period of three years on 28.12.1984 as Executive Engineer (E) in All India Radio under the Ministry of Information and Broadcasting. He is continuing to work there. He was promoted from the post of Assistant Engineer (E) to Executive Engineer (E) on 27.6.1986 in his parent department viz. C.P.W.D. He was, however, not allowed to be repatriated as the All India Radio

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needed his services. In the parent department, the promotion of Shri C.S. Mudhar was ordered on adhoc basis and the same was subsequently cancelled as he was retained by the All India Radio in public interest. After an expiry of deputation period of three years, the deputation was extended from time to time for a full span of 5 years - the maximum period for which deputation ordinarily is allowed. On expiry of the maximum period of deputation, All India Radio, Civil Constructions Wing vide order dated 16.4.1990 have decided to repatriate him to his parent department. The applicant is due to retire on 31.12.1990. The learned Counsel pointed out that the reversion of the applicant at this stage to his parent department would cause tremendous financial hardship to him as the C.P.W.D. may not be able to process his case for promotion to the rank of Executive Engineer (E) in the short period of service which now remains. The problem in C.P.W.D. particularly is more acute in view of the litigation which is going on between the graduates and diploma holder Assistant Engineer.

2. The learned Counsel for the respondents submitted that maximum period of deputation prescribed under the rules is 5 years. The applicant has already completed the said period and he cannot be retained further in the borrowing department. Further the action has already been completed to fill up the post which will be vacated by the deputationist including the applicant which would be by borrowing replacement from the C.P.W.D. again.

3. We questioned the learned Counsel for the applicant if the applicant has any legal right to continue beyond the maximum

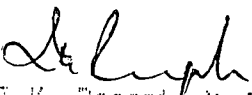
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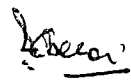
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period of 5 years as prescribed under the rules. It was conceded by the learned Counsel for the applicant that while the applicant has no legal claim, it is a fact to be reckoned that when his parent department promoted him to the rank of Executive Engineer (E) his repatriation was not considered in public interest by the All India Radio.

4. We have gone through the records before us and carefully considered the rival arguments. We are of the view that the applicant has no legal right to continue on deputation beyond a period of 5 years in accordance with the clear policy laid down by the respondents. Consequently, the application fails with no order as to the costs.

5. We, however, observe that the applicant is barely left with 6/7 months before he retires from service on superannuation. It is unlikely that the C.P.W.D. would be able to process his case during the short period left, for promotion to the grade of Executive Engineer (E) in that department. His repatriation at this stage would cause great deal of financial hardship. The respondents may, therefore, wish to consider sympathetically his request for continuing on deputation beyond the period of 5 years, in view of the fact that his performance is said to be very satisfactory and there are vacancies available with the respondents to accommodate him. The DA is disposed of accordingly at the admission stage itself.


(L.K. Rasgotra)
Member (A)


(T.S. Oberoi)
Member (J)