

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Regn.No. O.A.942/90 Date of Decision:
31.05.1991

Shri Pitam Singh ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM:

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

Hon'ble Shri B.N. Dhoundiyal, Member (A)

For the Applicant ... Shri Y.R. Malhotra,
Counsel

For the Respondents ... Shri M.L. Verma,
Counsel

This is an application filed under Sec.19 of the Administrative Tribunal's Act, 1985 by Shri Pitam Singh, a Senior Investigator in the Central Statistical organisation, who joined the Department of Economic Affairs as Economic Investigator on 26.2.83. His grievance is that he has worked in the Department of Economic Affairs for over 7 years. He has neither been absorbed nor his deputation term formally extended beyond 24.2.88. He prays that he may be absorbed on transfer on deputation basis and regularised in the post of Economic Investigator in the Department of Economic Affairs w.e.f. 26.02.1983.

contd.

2. The facts of the case are that the applicant, a Senior Investigator in the Department of Statistics was appointed as Economic Investigator in the Department of Economic Affairs on deputation on adhoc basis w.e.f. forenoon of 26.02.1983 for a period of one year in the first instance. His period of deputation was extended from time to time till 24.02.1988 i.e. upto completion of 5 years. Thereafter, his case for further extension was referred to the Department of Personnel and Training. The applicant claimed that he was recruited as per eligibility condition prescribed in the 1967 Rules and the amended recruitment Rules of November, 1983 were not brought into force with retrospective effect. Had he been treated under the old Rules when regular appointment to the post of Economic Investigator was considered in 1987, he would have been found eligible as the educational qualification for the post was degree of any University with one of the subjects namely, Mathematics, Economics, Statistics or Commerce.

3. In the amended Rules of 1983, the minimum qualification was raised to post graduation in one of the above subjects. According to the applicant, due to application of the 1983 Rules, he was denied permanent absorbtion

in the Department of Economic Affairs. The applicant claims the status of temporary transfer of Economic Investigator in the Department of Economic Affairs having been on deputation with them for over a period of 7 years.

4. The Respondents have claimed that the applicant could not be appointed as the Economic Investigator on transfer (absorbtion basis) either under the Recruitment Rules of 1967 or the revised Recruitment Rules of 1983. In the earlier Rules of 1967, there was no provision for appointment of Economic Investigators on transfer and he did not have the minimum required qualification for the post under the amended Rules of 1983. When the vacancy circular was issued for filling up the post of Economic Investigators, the applicant was found ineligible due to his not having the Post Graduation degree in the prescribed subject. The Department took up his case for relaxation of educational qualification but the Department of Personnel and Training did not agree on the ground that the relaxation sought was in respect of individual and not a class or category and that already a very large number of officers had responded against the vacancy circular who fulfilled the

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eligibility conditions. The appointment of Shri Vasudev and Shri O.C. Sharma referred to by the applicant was done by following the prescribed procedures after they had applied against the vacancy circular dated 14.11.1986.

5. The applicant also filed an MP on 17.01.91 praying that the respondents be restrained from reverting him before final adjudication of the application. The Tribunal issued an Interim Order maintaining the status quo as regards the continuation of the applicant as Economic Investigator on 18.01.1991. In the reply to the Miscellaneous Petition(MP), the Department has stated that the order for reverting the applicant to the parent Department had already been issued on 14.01.1991 but he has been evading service of the orders.

6. We have gone through the facts of the case and heard the contentions of both parties. The applicant has argued that reversion of deputationists which causes loss in salary and monetory loss is not good at law; if he loses his future as a result of the indiscriminate activities of the Department, his reversion would amount to the reduction in rank and that the benefits allowed to the co-equals cannot be denied to the applicant.

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In this context, he had relied on the following cases:

- (i) Dhingra's case ((AIR, 1958 SC 36)
- (ii) Kulbhushan Lan Vs. State of Haryana (1974-ASR-527)
- (iii) State of Mysore Vs. Nanju Diah (AIR-1965 SC-868)
- (iv) K.H. Phadnvis Vs. State of Maharashtra (AIR-1971 SC 998)

According to the respondents, employees on deputation do not have a right to absorption on the deputation posts. In this context, they have relied upon the following decisions:

- (i) Gita Ram Gupta Vs. Union of India (1979 SLJ(Delhi)727)
- (ii) Rathilal B. Sony, Vs. State of Gujarat (AIR 1990 SC 1132)
- (iii) Phool Chand Vs. General Survey of India (1-1988 ATLT(CAT)681)

In the case of Gita Ram/Gupta, the Delhi High Court has held that the reversion of deputationists to his parent department before the expiry of the specific period, does not entail any punishment. Similarly, in case of Rathilal B. Sony, it was held by the Supreme Court that the employees on deputation do not get any right to absorption on deputation posts, and can be reverted to the parent cadre at any time. In the case of Phool Chand, it was held by the Hyderabad Bench of this Tribunal that the petitioner had failed to establish his right to continue on deputation indefinitely.

7. Even though the applicant had no legal right to be absorbed in the Department of Economic Affairs, the respondents did try to secure from him relaxations in the educational qualification which were not agreed to by the Department of Personnel and Training. This indicates that they had no mala fide intentions and that the reversion to his parent department cannot be challenged on the ground of mala fides.

In the facts and circumstances, we see no merit in the application and the same is hereby dismissed. The Interim order directing the respondents to maintain status quo as regards the continuance of the applicant as Economic Investigator in the present post, is hereby vacated.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 31/5/91
MEMBER(A)

P.K. Kartha
(P.K. KARTHA) 31/5/91
VICE CHAIRMAN(J)