

**In the Central Administrative Tribunal
Principal Bench: New Delhi**

CCP No.302/92 in
OA No.2572/91

Date of decision: 17.02.1993.

Shri Suraj Bhan

...Petitioner

Versus

Union of India

...Respondents

Coram:-

**The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member(A)**

For the petitioner Shri R.L. Sethi, Counsel.

For the respondents Shri Virender Mehta, Counsel.

**Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)**

The direction, which it is alleged, has been disobeyed in this case is to consider the case of the petitioner for retention subject to the condition that he was eligible as on the date of repatriation and in all respect for absorption. The impugned order of repatriation, it is not disputed is of 23.8.1990. It is also not disputed that one of the conditions to be fulfilled for retention was that he should have passed the SSLC/Matriculation examination and the parent department should have issued a 'no objection certificate'. We have material before us from which it is clear that the petitioner had the requisite educational qualifications, as he has become a graduate before the relevant date. The only other question is as to whether the petitioner had in his favour a 'no objection certificate' from the parent department. The respondents say that there was no such 'no objection certificate' as on the date of repatriation on 23.8.1990. The petitioner has not been able to point

out any order of the parent department conveying that they have no objection for the petitioner's retention. He has, however, relied upon the reply given by the parent department as per Annexure A-3 dated 17.1.1991. That is the reply to the communication of the respondents dated 27.12.1990 and 9.1.1991 on the subject of permanent absorption. It is stated that the parent department has stated in Annexure A-3 dated 17.1.1981 that it has no objection for the absorption of the petitioner and two others named therein. It is clear from this letter (Annexure A-3) that 'no objection certificate' was conveyed on 17.1.1991 long after the relevant date 23.8.1990.

2. Shri Sethi, the learned counsel for the petitioner submitted that reference to the two letters dated 27.12.1991 and 9.1.1991 seeking clarification in regard to 'no objection certificate' suggests the possibility of 'no objection certificate' having been received much earlier and the respondents seeking clarification in respect thereof. To satisfy ourselves we saw the files containing the said two communications. They do not throw any light on the claim of the petitioner that a 'no objection certificate' was issued in favour of the petitioner on any date prior to 23.8.1990. On the material placed before us, it is not possible to accede to the petitioner's contention that a 'no objection certificate' was issued by his parent department before

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23.8.1990, as that was one of the essential conditions for considering the petitioner's case for absorption. As that condition has not been satisfied in this case, the petitioner was not entitled to absorption. The respondents having considered the case of the petitioner and have rejected his claim for absorption, it is not in the circumstances possible to say that they have acted in violation of the judgement of this Tribunal. These proceedings are accordingly dropped and the notice to contempt is discharged. No costs.

Malimath

(V.S. Malimath)
Chairman

I.K. Rasgotra
(I.K. Rasgotra)
Member (A)

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