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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2767/2004

This the 19th day of May, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SMT. MEERA CHHIBBER, MEMBER (J)

J.P.Rathore S/O Late B.P.Rathore,
R/O GHA-8, Housing Board,
Shastri Nagar,
Jaipur.

... Applicant

(By Shri L.R.Khatana, Advocate)

Versus

1. Union of India through
Secretary to Govt. of India,
Ministry of Finance,
Department of Economic Affairs
(Banking Division),
Jeevan Deep Building, 3rd Floor,
Parliament Street,
New Delhi.
2. Chairman,
Debts Recovery Tribunal,
Samrat Hotel,
New Delhi.
3. Presiding Officer,
Debts Recovery Tribunal-III,
Sanskriti Bhawan, D.B.Gupta Road,
Jhandewalan,
New Delhi.
4. Under Secretary (DRT),
Ministry of Finance,
Department of Economic Affairs,
Banking Division,
Jeevan Deep Building, 3rd Floor,
Parliament Street,
New Delhi.

... Respondents

(By Shri R.N.Singh, Advocate)

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ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (J):

Applicant has assailed Annexure A-1 dated 9.11.2004 whereby his appointment vide Annexure A-7 dated 27.2.2004 to the post of Recovery Officer in the office of Debts Recovery Tribunal-III (DRT-III), Delhi on deputation basis in scale Rs.10500-15200 has been cancelled.

2. The learned counsel of applicant contended that whereas in terms of Annexure A-7 dated 27.2.2004 applicant was to remain in position till such time the post was filled up as per procedure on deputation basis or the vacation of the stay by the High Court of Rajasthan at Jodhpur, whichever is earlier, and since neither the post occupied by applicant has been filled up as per procedure on deputation basis nor the stay has been vacated by the High Court of Rajasthan, therefore, cancellation of his appointment has been arbitrary and illegal. He further contended that as the advertisement Annexure A-3 for filling up the posts was for composite selection, applicant's appointment to the post of Recovery Officer could not have been restricted to DRT, Jaipur and he ought to have been considered for various other places and also for "vacancies likely to arise all over the country". The learned counsel then pointed out that while in the impugned orders Annexure A-1 respondents have stated that they were not aware of the stay orders passed by the Rajasthan High Court on 16.12.2002, in fact they were in full knowledge of the High Court's orders, and as such, cancellation of his appointment is untenable. The learned counsel also stated that the impugned orders have been issued without issuing any show cause notice to applicant and as such they are in violation of the principles of natural justice.

3. The learned counsel of respondents on the other hand, stated that the Rajasthan High Court had directed the Government not to act upon the advertisement to fill up the post of Recovery Officer, DRT, Jaipur until further

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orders. As a matter of fact, respondents have acted against the directions of the Rajasthan High Court and appointed applicant against the post in the office of DRT-III, Delhi on certain conditions on the basis of applicant's representation Annexure R-II dated 7.10.2003. A vacancy had arisen in DRT-III, Delhi due to premature repatriation of the incumbent and as such applicant's request was acceded to and he was posted vide Annexure A-7 till such time the post was filled up as per procedure or the vacation of the stay by the Rajasthan High Court. In such an event, the learned counsel maintained that no right has accrued to the applicant of remaining on the post in DRT-III, Delhi and that his orders could be cancelled without issuing any show cause notice in terms of the conditions stated in those orders. The learned counsel further drew our attention to applicant's application annexure R-I in which he had applied for the post of "Recovery Officer, DRT, Jaipur only". The learned counsel maintained that basically he could not have been considered for any other post except for the post at Jaipur. Respondents, on the basis of applicant's representation, accommodated him for a short period only. The learned counsel pointed out that one Ranjit Singh, Senior Manager, Punjab & Sind Bank, has been selected for the post at DRT-III, Delhi and the Department of Economic Affairs has already written to the General Manager, Punjab & Sind Bank, New Delhi to relieve Shri Ranjit Singh to take over the position to be vacated by applicant. He further stated that the Rajasthan High Court has not yet vacated their stay orders in respect of the post at Jaipur. In this backdrop, the learned counsel maintained that cancellation of applicant's appointment has been absolutely in order.

4. We have considered the rival contentions as also the material on record. Vide Annexure A-3, i.e., the advertisement, respondents had invited applications for the post of Recovery Officers in DRTs at Mumbai, Kolkata, Chennai, Jaipur, Patna, Jabalpur, Aurangabad, Visakhapatnam, Pune and Ranchi. It is true that in the advertisement it is also stated that applications could be made

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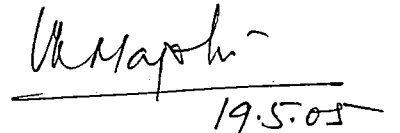
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for vacancies likely to arise in the three grades in all other DRTs all over the country. Be that as it may, it is quite clear that vide his application Annexure R-I applicant had applied for the post of Recovery Officer, DRT, Jaipur only. He could not have been considered for posts at other specified places or even where vacancies were to arise. In our view, respondents have been quite considerate in considering applicant's representation dated 7.10.2003 and posting him at DRT-III, Delhi despite the stay order of the Rajasthan High Court in respect of the post of Recovery Officer, DRT, Jaipur. While respondents have selected one Shri Ranjit Singh as per prescribed procedure for the post at Delhi, applicant could not have been allowed to continue in position at Delhi. It is not applicant's case that the High Court has vacated its orders in respect of the post at Jaipur. On the selection of Shri Ranjit Singh for the post at DRT-III, Delhi, applicant's removal from the post at Delhi even without issuing any show cause notice, no rights having accrued to applicant on the post of Recovery Officer in DRT-III, Delhi, are quite in order and justified.

5. Having regard to the discussion made and reasons stated above, interim orders passed on 19.11.2004 and continued thereafter against the impugned orders, are vacated and the OA is found to be without merit. However, in the facts and circumstances of the case it is disposed of with an observation that applicant may be considered for posting at DRT, Jaipur on vacation of the stay orders of the Rajasthan High Court.



(Meera Chhibber)
Member (J)


19.5.05

(V. K. Majotra)
Vice-Chairman (A)

/as/