

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1376/2004

with

O.A.No.1308/2004

New Delhi, this the 8th day of September, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

O.A.No.1376/2004:

1. HC Dhaneshwar Singh (No.252/DAP)
S/O Maharaj Singh
r/o House No.HC-4
P.S. Parliament Street,
New Delhi.
2. HC P.M. Govindan Kutty (No.11/Sec.)
s/o Shri P.P. Balakrishnan Nair
House No.144, Kumar Basti
Mohammadpur
R.K.Puram
New Delhi.
3. HC. C. Madesh (No.6342/DAP)
s/o Shri T.Chanappa
Q. No.1566, Sector 7
Pushpa Vihar, New Delhi.
4. HC Azad Singh (No.261/Sec.)
s/o Shri Bhoop Singh
Q. No.896, Sector-3
Pushp Vihar, New Delhi.
5. HC Girish Chandra (No.1097/Sec.)
s/o Shri Guryanmani Lakhera
Q. No.1171, Sector-7
Pushpa Vihar, New Delhi.
6. HC Mehar Chand (No.1252/Sec.)
S/o Shri Bahadur Singh
Q. No.788, Sector-3
Pushpa Vihar, New Delhi.
7. HC Om Pal Singh (No.1265/Sec.)
s/o Shri Narayan Singh
Qr. No.171, Type II, P.C., Vikas Puri,
Delhi - 110 018.
8. HC Braham Pakash (No.2316/N)
s/o Shri Ramjiwan Yadav
Q No.1291, Sector-7
Pushap Vihar, New Delhi.
9. HC Jai Kishan Gulia (No.2307/N)
s/o Late Shri Jai Lal
Raghubir Enclave, Main Gali
Najaf Garj, Delhi.
10. HC Om Prakash Yadav, (No.2193/N)
s/o Shri Raghbir Singh
Q. No.171/D, Sector-4
Pushap Vihar, New Delhi.

11. HC P.Jai Gopal Reddy, (No.549/NW)
s/o Late Shri P. Krishna Reddy
Q. No.71-H, Sector-A
Pushp Vihar, New Delhi - 110 017.
12. HC Awadesh Kumar (No.443/Sec.)
s/o Shri Pradeep Narain Singh
Q. No.104-J, Sector-4
Pushp Vihar
New Delhi - 110 017. ... Applicants
(By Advocate: Shri P.P.Khurana, Sr.
Counsel with Shri Ajit Warrier)

Versus

1. Union of India
through the Secretary
Ministry of Home
New Delhi.
2. Delhi Police
Through Commissioner of Police
New Delhi. ... Respondents
(By Advocate: Sh. Ajesh Luthra)

O.A.No.1308/2004:

W/HC Vijay Laxmi
1145/SD (CRPF)
W/o Shri Ranveer Singh
r/o Friends Colony, Hodal
Distt. Faridabad. .. Applicant
(By Advocate: Sh. K.C.Mittal)

versus

1. Union of India through
Secretary
Ministry of Home Affairs
Central Sectt., North Block
New Delhi.
2. Commissioner of Police
Police Headquarters
I.P.Extension
I.T.O., New Delhi.
3. Joint Commissioner of Police
Establishment (Estt.)
Police Headquarters
I.P.Extension
I.T.O., New Delhi. ... Respondents
(By Advocate: Sh. Ajesh Luthra)

ORDER

Justice v.s. Aggarwal:-

By this common Judgement, we propose to dispose of the two Original Applications, namely, OA No.1376/2004 and OA No.1308/2004 because they involve a common controversy.

2. Applicants in OA 1376/2004 seek that they should be permanently absorbed in Delhi Police. The applicants contend that between the period 1998 and 1999 they along with many others were sent on deputation from their respective parent departments to the Delhi Police. They became entitled for being considered for permanent absorption in Delhi Police in terms of Rule 5 of the Delhi Police (Appointment & Recruitment) Rules, 1980 read with Rule 17 of the Delhi Police (General Conditions of Service) Rules, 1980.

3. After having decided to absorb the applicants permanently in the year 2000-2001, Respondent No.2 had asked for 'No Objection Certificate' from their respective parent departments. A decision to permanently absorb the applicants was taken after obtaining 'No Objection Certificates' from their respective parent departments. They were called upon to furnish an Undertaking and Bond and were further directed to attend a refresher course for three months. They successfully completed the same. It is contended that respondents are illegally repatriating the applicants to their respective parent departments. The said action is alleged to be illegal on various grounds. Hence the present application.

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13

4. HC Vijay Laxmi has filed OA 1308/2004 contending the almost similar facts. She asserts that she came on deputation from Central Reserve Police Force (for short 'CRPF') in 1996. She had been considered for permanent absorption in Delhi Police. The respondents have already decided to absorb her. No Objection Certificate was obtained from her parent departments. She had given an undertaking and was sent for training which she had successfully completed. Thereafter, instead of issuing an order permanently absorbing her in Delhi Police, an order has been issued repatriating her which is being challenged in the present OA to be illegal and contrary to law.

5. The order which is almost common in both these applications repatriating the applicants reads:

"Reference PHQ's order
No.7980-8100/P.Br. PHQ (AC-V) dated
14.5.2004 and T.P.M.
No.448/R-ACP/Command Room, dated
16.5.2004, on the subject cited above.

2. In view of changed Political Scenario, it has been decided that the deputationists who are deployed on security duties such as PSO, Standing Guard, Screening, Escort and RPB etc. with VIPs, and protected persons will not be disturbed atleast till the end of May, 2004 while the following remaining deputationists are ordered to be relieved with immediate effect and compliance report alongwith copies of D.D. entries be sent to this Hdqrs. by 5 P.M. on 21.5.2004 positively."

6. We have heard the parties' counsel and have seen the relevant record. On behalf of the respondents, it was urged that this Tribunal has no jurisdiction to entertain the applications. According to the learned counsel, the applicants belong to other armed forces of the Union, and therefore, in terms of

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Section 2 of the Administrative Tribunals Act, 1985, this Tribunal has no jurisdiction to entertain the applications.

7. The question as to whether this Tribunal has the jurisdiction to entertain the applications pertaining to members of the other Armed Forces who are on deputation, the learned counsel for the applicants had drawn our attention to the fact that in an earlier application filed by Sh. Satender Pal and Others (OA No.3202/2001, decided on 11.11.2002), this Tribunal had dismissed the application holding:

"We have considered these aspects. It is a well known fact that cause of action is bundle of facts, which constitute cause of action. In this case, the question of absorption is involved. For the purpose of absorption it is a well-settled principle that the concurrence of borrowing department, lending department as well as the employee is required, unless the concurrence of all these three parties is there, the employee cannot be absorbed in the borrowing department. In the case the leading department has not given the NOC despite the fact that the borrowing department has written letter for this purpose for granting of NOC by the present department which is a BSF and employees are also that of BSF, so the court cannot assume the jurisdiction to give any direction to the BSF authorities as Section 2 of the AT Act does not empower the court to entertain this petition of member of any Armed Forces seeking a relief against Armed Forces. Besides that since the parent department itself has not given the NOC rather they have categorically refused to give NOC and rather BSF authorities had requested the Respondents to relieve the applicants, so they are repatriated as per Annexure R-6, R-7."

8. The applicants therein had challenged the said order of this Tribunal by filing CWP No.7406/2002. The Delhi High Court had set-aside the said order primarily on the ground that since the

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15
order had been passed by the Intelligence Bureau, any challenge to it squarely fell within the jurisdiction of the Tribunal and thereupon it was held:

"We find substance in the plea because petitioners OA was directed against order dated 11.11.2002 (Annexure A to OA) passed by the IB whereby petitioners were to be ordered to be repatriated. The Tribunal was required to examine the validity of this order first because it had taken over the issue of NOC. Since this order was passed by the IB, any challenge to it squarely fell within the jurisdiction of the Tribunal. Therefore, the order passed by it washing its hands off cannot sustain and is set aside.

The Tribunal is resultantly directed to revive OA 3202/2001 and consider it afresh and dispose it of by passing appropriate orders under law. Parties to appear before it on 2nd December, 2002. Meanwhile petitioner's present status in IB which was protected by the Tribunal vide interim order dated 28.11.2001 shall not be disturbed till disposal of their OA within four months of first appearance of parties."

9. We know from the decision in the case of L. CHANDRA KUMAR v. UNION OF INDIA AND OTHERS, 1997 SCC (L&S) 577 that the Supreme Court in unambiguous terms held that right to seek judicial review is one of the basic structure of the Constitution and all decisions of the Administrative Tribunal would be subject to the scrutiny before the Division Bench of the High Court within whose jurisdiction the Tribunal concerned fell. Keeping in view the said finding of the Supreme Court, we have not the least hesitation to conclude that the decisions of the High Courts would bind this Tribunal because this Tribunal has all India jurisdiction.

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10. To appreciate the said argument, we refer to Section 2 of the Administrative Tribunals Act, 1985 which reads as under:

"The provisions of this Act shall not apply to -

- (a) any member of the naval, military or air forces or of any other armed forces of the Union;
- (b) [omitted]
- (c) any officer or servant of the Supreme Court or of any High Court [or courts subordinate thereto];
- (d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature."

11. A plain reading of Section 2 of the Act shows that its provisions do not apply to members of the Armed Forces which includes CRPF and other similar paramilitary forces. On the strength of the same, it is being urged that once the provisions of the Act do not apply to these persons, this Tribunal cannot deal with their matters.

12. Learned counsel for the respondents contended that because of the decision of the Supreme Court in the case of MAJOR M.R. PENGHAL v. UNION OF INDIA AND OTHERS, JT 1998 (5) SC 624, this Tribunal has no jurisdiction. The Judgement of the Supreme Court binds this Tribunal and therefore, the decision of the Delhi High Court to which we have referred to above must be taken to be contrary to law. He particularly referred to Article 141 of the Constitution.

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13. The decision in the case of Major M.R. Penghal (supra) pertains to Postal Department. The person was working on deputation with the Army. A temporary commission was given. The question for consideration before the Apex Court was as to whether the Central Administrative Tribunal will have jurisdiction to entertain the application or not. The Supreme Court held that the said person could not be treated as Army personnel. The findings of the Supreme Court read:

"9. As stated above, although the appellant was selected by the Postal Department for appointment to the post of clerk, but he could not be given any appointment due to want of vacancy in the unit of his choice. Under such circumstances, the appellant was offered an appointment to work as a clerk in the Army Postal Service on the condition that he would remain a civilian employee on deputation in the Army. The appellant accepted the aforesaid offer and agreed to the conditions that he would revert to the civil appointment in Posts and Telegraphs Department on his release from the Indian Army Postal Service. With these conditions, the appellant continued to serve in the Army as a permanent employee of the Posts and Telegraphs Department on deputation and was promoted up to the rank of a Major in the Indian Army. However, the appellant was only given a temporary commission and he worked as such till the date when his relinquishment was ordered. The aforesaid facts clearly demonstrate that the appellant has a lien with the Posts and Telegraphs Department working on deputation in the Indian Army Postal Service and at no point of time the appellant became a full-fledged army personnel. Since the appellant was not a member of the Armed Forces and continued to work as a civilian on deputation to the Army Postal Service, his case was covered under Section 14(1)(a) of the Administrative Tribunals Act. In that view of the matter, the High Court was right in rejecting the writ petition filed by the appellant, whereas the Central Administrative Tribunal erroneously accepted the claim of the appellant that he is an army personnel.

18 Ag e

We, therefore, uphold the judgment and order of the High Court dismissing the writ petition filed by the appellant. Since the appellant while holding civil post was working in the Army Postal Service on deputation, the Central Administrative Tribunal had jurisdiction to entertain and decide the original application filed by the appellant. We accordingly set aside the order dated 31-1-1997 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, and remand the case to it to decide expeditiously Original Application No.1647 of 1996 of the appellant, on merits."

14. The learned counsel even read to us the order that has been passed by this Tribunal considering Section 2 of the Administrative Tribunals Act.

15. However, we have not the least hesitation in rejecting the argument of the respondents' learned counsel. The reason is obvious. The Delhi High Court in the order to which we have referred to above held that this Tribunal has jurisdiction to entertain the application because the order had been passed by the Intelligence Bureau to which this Tribunal had the jurisdiction. Herein the order had been passed by the Commissioner of Police. Once such is the logic given by the Delhi High Court, the decision of the Supreme Court will be distinguishable and further discussion is not called for keeping in sight the decision of the Supreme Court in the case of L. Chandra Kumar (Supra) would be an exercise in futility. We reject the respondents' contention.

16. Learned counsel very eloquently pointed that in all the present matters, decision had already been taken to absorb the applicants. Even their parent departments have given their No Objection

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19
Certificates. The applicants were sent for training but before formal order of absorbing them could be passed, they have been repatriated. According to the applicants, it is patently illegal. But to keep the record straight, we must admit that on 13.7.2004 when this matter was argued before us and the orders to which we have referred to hereinafter were pointed, we were inclined to allow the applications. At that stage, respondents' learned counsel wanted time to get the necessary instructions and the matter was adjourned. On the next date, the matter was argued and it appears that what stares glaringly at us is the earlier order passed by this Tribunal and other facts to which we shall refer to hereinafter.

17. In the case of HC Vijay Lakshmi (OA No.1308/2004), the order of the Commandant (Personnel-II) to the Additional Commissioner of Police (Estt.), dated 23.10.2001 reads:

"Subject: NOC FOR PERMANENT ABSORPTION

Sir,

Please refer to your letter No.22309-P.Br. PHQ(AC-V) dated 6/9/2001 and this Dte. letter of even No. dated 10/10/2001 on the subject cited above.

2. The undersigned has been directed to convey the concurrence for permanent absorption in respect of No.860887277 HC (Mah) Vijay Laxmi of 104 Bn, CRPF who is presently on deputation with Delhi Police wef. 18/7/96.

3. Formal order of Permanent absorption of above Mahila may please be issued at your end accordingly.

4. This Dte. letter of even No. dated 10/10/2001 may please be treated as cancelled.

Yours faithfully,

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Sd/-
Commandant (Pers-II)
No.D.I-48/2001-Pers-II dated, the Oct, 2001"

18. The record further reveals that thereafter the applicant had given Bond/Undertaking that she will claim seniority from the date of joining Delhi Police on deputation and she was even sent to the training at Jharoda Kalan for three months refresher course.

19. In the case of HC Dhaneshwar Singh & Others (OA No.1376/2004), the learned counsel had read to us the letter of the Joint Commissioner of Police addressed to the Minister, Ministry of Tourism, Statistics and Programme Implementation, dated 11.12.2001 pertaining to HC(Driver) C. Madesh (Applicant No.3). The said order reads:

"Subject:- Regarding permanent
absorption of HC (Driver)
C.Madesh No.6342/DAP in Delhi
Police.

.....

Sir,

With reference to your d.o. letter No.49/M.(TS & PI) 2001 dated 10.10.2001 and in continuation of C.P. Delhi's letter No.2338/PA-CP, dated 18.10.2001, on the above subject, I am directed to inform you that the case of HC (Driver) C. Madesh No.6342/DAP has been approved by the Commissioner of Police, Delhi for permanent absorption in Delhi Police. However, as per our policy decision, the orders regarding his permanent absorption will be issued after he has successfully completed the prescribed refresher course. Principal/PTC, Jharoda Kalan, New Delhi has been requested to intimate us the date of starting the said refresher course so that HC (Dvr.) C. Madesh may be deputed for the same. The duration of the refresher course is 3 months and P/PTC may take some time to organise the course. Thus the absorption will be effective in about 6 months time.

CS Ag

21

- 12 -

Yours faithfully,

Sd/-

(Seva Dass)

Joint Commissioner of Police
HDQRS.: DELHI."

20. The learned counsel for the applicants also read to us different other orders which were passed to send the applicants for Police Training Course/Refresher Course. The order of 25.11.2002 further reads:

"Subject: Regarding Permanent absorption in Delhi Police.

The cases of the following HCs (Ex.) (Deputationists) are under consideration for permanent absorption in Delhi Police for which they are required to be put on a brief refresher course of 3 months duration. It has been decided that they may be put for the said refresher course in a separate batch which will start in the first week of December, 2002. Hence they may be relieved of their duties with the direction to report to CDI/PTC in the first week of December, 2000, after all codal formalities and confirming the actual date of starting the said course from P/PTC, Jharoda Kalan, Delhi, under intimation to this Hdqrs.:-

1. HC(Ex.)Braham Prakash, 2316/N North Distt./Security
2. HC(Ex.)Jaikishan Gulia, 2307/N North Distt./Security
3. HC(Ex.)Om Prakash Yadav 2193/N North Distt./Security
4. HC(Ex.)P. Jai Gopal Reddy, 549/NW N.W.Dist./Security
5. HC(Ex.)Avdesh Kumar Singh, 443/Sec. Security
6. W/HC Vijay Laxmi, 1145/SD South District

Sd/-

(B.C.Kalra) ACP: HQ(P)

For Joint Commissioner of Police
HDQRS. Delhi"

21. It is on the strength of these basic facts that it was contended that these persons have completed their refresher course. They passed their necessary examination, and therefore, there was nothing further to be done and order of relieving them and sending back or repatriating them cannot be sustained.



22. From the aforesaid, the fact established is that decision had been taken on the record to absorb these applicants. These decisions had been taken on the records in the year 2002. Letters were being written to which we have referred to above that question of absorbing these persons is under consideration. At best, it would show that a decision had been taken only on the record but formal order had yet not been issued.

23. The Constitution Bench of the Apex Court in the case of BACHHITTAR SING v. STATE OF PUNJABI AND ANOTHER, AIR 1963 SC 395 had considered this vexed question. It held that before something amounts to an order of the State Governments two things are necessary. The Constitution, requires that the action must be taken by the authority concerned and the order should be passed and communicated to the person who would be affected by that order before the State and that person can be bound by that order.

24. In the present case before us, it is true that the decision had been taken to absorb them. They were directed to undergo the training and an undertaking had been filed but formal order absorbing them had not been passed. In that view of the matter, it cannot be held that it could be termed that the applicants had formally been absorbed and another order repatriating them could not be passed.

25. As already referred to above, what stares glaringly at us is the order passed by this Tribunal in the case of ARJUN SINGH NEGI v. UNION OF INDIA &

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OTHERS, O.A.No.466/2003, decided on 28.2.2003.
Somewhat a similar question was urged and this
Tribunal held:

"7. A person on deputation has no vested right to be absorbed even if for certain reasons, he overstays after the period of deputation is over unless there is a positive act whereby the person concerned is absorbed permanently, the said right is not available to the applicant. In the present case, even if the applicant had given the consent to be absorbed followed by no objection of his parent department still, till such an order absorbing him in the IB is passed, the applicant does not have a vested right in this regard.

8. Keeping in view the above, the said principle of promissory estoppel also cannot be stretched that the applicant must be absorbed in the IB. The right existed with the authorities not to absorb him till such time the final order is not passed."

26. Shri Arjun Singh Negi had challenged the order in Delhi High Court in Civil Writ No.2366/2003 which was decided on 8.5.2003. In the Delhi High Court also, it was argued that the Intelligence Bureau had taken a decision to absorb the petitioner permanently after getting approval of the parent department. The Delhi High Court dismissed the Writ Petition and the findings are:

"The main ground, on which the impugned order is sought to be challenged, is that although in some cases, the I.B. has absorbed the deputationists from the C.I.S.F. permanently but a different treatment is being meted out to the petitioner. Since, before us, it was also the stand of the petitioner that the I.B. had taken a decision to absorb the petitioner permanently after getting approval from the parent department, namely, the C.I.S.F., there was no cause for taking a fresh decision to repatriate him back to C.I.S.F., we had asked counsel for the respondents to produce the file where the decision, to repatriate the petitioner to his parent department, had been taken. In response thereto, the original file

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has been produced before us. Learned counsel for the respondents has also shown to us a letter dated 31 January 2003, received by the I.B. from the C.I.S.F., requesting for immediate repatriation of the petitioner, if orders for his permanent absorption in I.B., had not been issued. It is submitted by learned counsel for the respondents that since the petitioner had not yet been actually absorbed in the I.B., the decision to repatriate him was taken on receipts of the said letter.

Having regard to the said stand of the respondent, the order passed by the Tribunal cannot be faulted with. It is a well settled proposition of law that a deputationist has no vested right of permanent absorption in a deputation department. It is always open to the parent department to object to his absorption, and recall its employee sent on deputation, like in the present case.

There is no merit in the writ petition. The same is, accordingly, dismissed."

27. It is these facts which prompt us to conclude that we have little scope of interference in the order.

28. Learned counsel for the applicants had referred to the decision of the Supreme Court in the case of UMAPATI CHOUDHARY v. STATE OF BIHAR AND ANOTHER, (1999) 4 SCC 659. In the cited case, the facts reveal that repatriation order of the deputationist was passed after he was permanently absorbed. That is not the position herein. The following extract from the aforesaid decision makes the position clear:

"8. Deputation can be aptly described as an assignment of an employee (commonly referred to as the deputationist) of one department or cadre or even an organisation (commonly referred to as the parent department or lending authority) to another department or cadre or organisation (commonly referred to as the borrowing authority). The necessity for sending on deputation

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25

arises in public interest to meet the exigencies of public service. The concept of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation or not. In the case at hand all the three conditions were fulfilled. The University, the parent department or lending authority, the Board, the borrowing authority and the appellant, the deputationist, had all given their consent for deputation of the appellant and for his permanent absorption in the establishment of the borrowing authority. There is no material to show that the deputation of the appellant was not in public interest or it was vitiated by favouritism or mala fide. The learned Single Judge in the previous writ petition had neither quashed the deputation order nor issued any direction for its termination. Indeed the learned Single Judge had dismissed the writ petition. No material has been placed before us to show that between November 1987 when the judgement of the Single Judge was rendered and December 1991 when the Division bench disposed of the writ petition filed by the appellant the petitioners of the previous case had raised any grievance or made any complaint regarding non-compliance with the directions made in the judgement of the learned Single Judge. In these circumstances the Division Bench was clearly in error in declining to grant relief to the appellant. Further, the appellant has, in the meantime, retired from service, and therefore, the decision in the case is relevant only for the purpose of calculating his retiral benefits."

29. Since in the case of Umapati Choudhary (supra) an order of permanent absorption had been passed, therefore, the order of the High Court had been quashed. It is not so here. Resultantly, it must be held to be distinguishable.

30. Another limb of the argument in the same line was that even if the applicants' absorption was approved, at best, they could be taken to be on the

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panel that they come on parity with those persons on the panel but they did not get any indefeasible right to be so appointed.

31. Law is well settled in this regard. We refer the following decisions of the Supreme Court:

1. SABITA PRASAD AND OTHERS v. STATE OF BIHAR AND OTHERS, 1993(1) SLR (Vol.87) 44;
2. SHANKARSAN DASH v. UNION OF INDIA, 1991 (2) SLR (Vol.72) 779;
3. R.S.MITTAL v. UNION OF INDIA, 1995 Supp (2) SCC 230; and
4. UNION OF INDIA v. SHRI RATI PAL SAROJ AND ANOTHER, JT 1998 (1) SC 449.

32. The Supreme Court held that persons whose names are appearing on the file after selection do not get any indefeasible right but arbitrarily they cannot be removed from panel.

33. Even if we apply the said principles in the facts of the present case, the net result is the same. This is for the reason that it cannot be taken that here is an arbitrary decision. The respondents pointed that it was noticed that the cases of the applicants cannot be separated, and therefore, a decision was taken to repatriate all the deputationists. The respondents did not want to adopt the pick and choose policy discriminating between the persons who are equally placed. In that view of the matter, when there is a uniform policy which is now being adopted, it cannot be said that the order of repatriating the applicants can be termed as

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27
arbitrary. Therefore, the above said decisions of the Supreme Court will not come to the rescue of the applicants.

34. As regards the last submission that applicants have a right to be considered, this question had been considered by this Tribunal in bunch of applications, particularly OA No.140/2004, decided on 9.7.2004. The decision of the Delhi High Court in Civil Writ Petitions No.9100-9226 of 2003 had also been taken note of. The plea similarly advanced had been rejected. It was held:

"59. This is a policy decision. The applicants had been taken on deputation as per the requirement. We have already referred to above that the applicants have no right to be absorbed. If the respondents do not intend to absorb them permanently, they cannot insist in this regard. In this view of the matter, availability of the posts will not confer a right on the applicants.

60. In fact, most of the present applicants had earlier also filed Petitions in the Delhi High Court. Writ Petitions No.9100-9226/2003 came up before the Delhi High Court on 27.1.2004. The Delhi High Court dismissed the Petitions holding that:

"We have heard the counsel for the petitioners. We do not find any force in the submission of counsel for the petitioner. The petitioners are recruited personnel of CISF, ITBP and CRPF. Their period of deputation to the Delhi Police was for one year. Even though it was contended before us that Ministry of Home Affairs has settled the terms for deputation for three years but Delhi Police has taken the petitioners on deputation for a period of one year, therefore, they cannot claim that they are entitled for deputation to a period of three years. Even otherwise if certain posts are to be filled in Delhi Police whether for the purpose of new recruitment or in terms of the affidavit which has been filed in Public Interest Litigation in other writ petition that itself cannot give right to the

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petitioners for appointment to such posts or for further continuation of deputation or moreover these opportunities of employment should be given to other persons who are unemployed and are seeking employment as Constable in Delhi Police. The petitioners who have already been working with the respective paramilitary organisations have no vested right for appointment or continuation of their deputation if respondent do not desire the same. However, Mr. Bhushan has contended that children of some of the petitioners are studying if the transfer order is given effect from 3.2.2004, it would entail hardship to the children who are studying in schools. Mr. D.S. Norawat, DCP (Headquarter) Delhi Police is present in the Court. He says that they will not implement the transfer order till 30.4.2004."

(Emphasis added)

35. On parity of reasonable and harmony with earlier decision, we hold that the applicants have little claim to succeed. Resultantly, both the Original Applications being without merit must fail and are dismissed. However, it is directed that the impugned order which has been stayed would not be operated for a period of four weeks from today.

(S.A. Singh)
Member (A)

(V.S. Aggarwal)
Chairman

/NSN/