

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1728/92.

Date of decision

4/11/92

Shri Raghuvir Singh ... Applicant

v/s

Union of India & ... Respondents
Others.

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Member Mr. I.P. Gupta, Member (A)

For the Applicant ... Shri Shyam Babu, Counsel.

For the Respondents ... Shri Jag Singh, Counsel.

(1) Whether Reporters of local papers may be allowed to see the Judgement ?

✓(2) To be referred to the Reporter or not ? Yes

J_U_D_G_E_M_E_N_T

Delivered by Hon'ble Mr. I.P. Gupta, Member (A)

In this application filed under Section 19
of the Administrative Tribunal Act, 1985, the applicant has requested for quashing of the orders of the respondents rejecting the request of the applicant for permanent absorption in I.B. and placing back his services at the disposal of Director General (BSR)

with effect from 1.5.1992. He has further requested for quashing of the order dated 17th June, 1992 which said that 'your request for absorption in I.B. was examined but it is regretted that the same has not been acceded to. This issues with the approval of D.D.(E)'.

2. The applicant has been making representations repeatedly for permanent absorption in I.B. from 5.2.1990 onwards. He was appointed in Intelligence Bureau as ACIO-II (EDP) on deputation from BSF for a period of three years by letter dated 20th November, 1986. Consequent upon his promotion to the rank of Inspector in his parent department, the applicant was appointed as ACIO-I (EDP) at I.B. Headquarters on deputation basis for a period of three years on usual terms. By order dated 1.5.1992 his services were placed back at the disposal of B.S.F. with immediate effect. By virtue of interim order issued on 7.7.1992 the applicant, however, has continued in the I.B.

3. The Learned Counsel for the applicant drew attention to the Office Memorandum dated 13.1.1992

(Annexure K) of the I.B. which dealt with absorption of non-gazetted executive rank. Certain conditions were laid therein for absorption. He also referred to the recruitment rules for the post of ACIO-I which said that 75% of the posts would be filled by promotion failing which by deputation/failing both by direct recruitment and 25% by deputation/transfer failing which by direct recruitment. Learned Counsel for the respondents argued that the applicant fulfilled all eligibility conditions for absorption and the rules also provided for filling up of 25% posts by deputation/transfer and, therefore, deputation and transfer were treated alike against 25% posts and transfer meant permanent absorption in the post as brought out in O.M. dated 13.1.1992 (Supra) (Annexure K).

4. The Learned Counsel for the respondents stated that the sanctioned strength of ACIO-I was 13 and that of ACIO-II was 31. 75% of the sanctioned strength of ACIO-I (EDP) worked out to merely 9. This meant that only 9 posts were available in the promotion quota as against the total strength of 31 ACIO (EDP). At present, 7 ACIO-I, including

the applicant were working on deputation in I.B.

The applicant was the senior-most among them and if his request for permanent absorption was acceded to, his juniors in the line would also come up with similar requests quoting the applicant's case as a precedent. Therefore, for protecting the interest of departmental employees the applicant's request for absorption was rejected.

5. At this stage the Learned Counsel for the

applicant intervened to say that what the applicant was claiming was absorption as a deputationist from the quota of 25% as prescribed in the recruitment rules which provided that the I.B. would first resort to deputation against this quota and failing that by direct recruitment. He added that the Intelligence Bureau themselves on 12.12.1989 directly appointed two officers and, therefore, the contention of the respondents that the deputation quota was over-subscribed was not correct. If it was over-subscribed, he questioned why direct recruitment was resorted to.

6. Analysing the facts and arguments in this

case we find that there only 13 posts of ACIO-I (EDP) in I.B. 25% of these 13 posts would work out to 3

or at best by stretching 3.25 to 4. The respondents have said that at present 7 ACIO-I are working on deputation basis. Therefore, to make room for promotions, deputationists who have completed their period of deputation have to revert. If officers are eligible for promotion against 75% quota and if deputationists are over-subscribed against 25% quota, the deputationists who have completed their tenure have no vested right to continue. If, therefore, all deputationists, who had completed their tenure were reverted, if they were beyond 25% quota, for making room for promotion against 75% quota, the applicant cannot claim absorption as a matter of right, since he has completed his deputation. But if any other deputationist is also over-staying then the point that arises is whether in the matter of repatriation any principle has been adopted according to guidelines or instructions of the respondents. The memorandum dated 10.10.1990 invited nominations from non-gazetted executive staff on deputation from CPOs for absorption in I.B. The contents of the letter were to be brought to

(2)

the notice of all deputationists from the CPO
who have rendered four years service in I.B.
and their written acknowledgement to that
effect was to be obtained. The full bio-data
of the deputationists was required to be sent
in the prescribed proforma along with the willing-
ness of the personnel who were willing to be
considered. On receipt of the nominations, the
cases for absorption were to be referred to the
Departmental Screening Committee after which
order according approval to the absorption of
the personnel was to be issued by the I.B. Head-
quarters. In view thereof, we direct that the case
of absorption or otherwise of the applicant along
with other deputationists (apart from those absorbed
on recommendation of Departmental Screening Committee)
should be determined on the recommendations of the
Departmental Screening Committee within a period of
two months from the date of receipt of a copy of this
order and until such consideration the applicant
should continue in the deputation post. As clarified
earlier, this direction is to be carried out only if
there be cases of other deputationists overstaying in

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I.B. as ACIO-I beyond his prescribed tenure of
deputation even though not recommended by the
Departmental Screening Committee. The applica-
tion is disposed of with the aforesaid direction
with no order as to costs.

I.P. Gupta
I.P. Gupta
Member (A) 4/11/92

Ram Pal Singh
Ram Pal Singh
Vice-Chairman (J)