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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 338/1992

New Delhi this the 24th day of July, 1996.

HON'BLE SHRI JUSTICE A. P. RAVANI, CHAIRMAN
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Maheesh Kumar Saxena (Dr),
Director, Cabinet Secretariat,
R/O D-103 MS Appt.,
K.G. Marg, New Delhi-1.

... Applicant

(By Shri G. K. Aggarwal, Advocate)

-Versus-

1. Union of India through,
Cabinet Secretary,
Cabinet Secretariat,
South Block,
New Delhi.
2. Secretary,
Deptt. of Defence Research &
Development & Scientific
Adviser to Defence Minister &
Director General, Defence
Research Development,
South Block,
New Delhi.

... Respondents

(By Shri M. K. Gupta, Advocate)

O R D E R (ORAL)

Shri Justice A. P. Ravani —

The applicant was serving as Scientist-D in the Defence Research & Development Organisation (DRDO). He was deputed to the Cabinet Secretariat in the year 1989 and he joined there on deputation as Director (S & T) with effect from November 8, 1989 in the pay scale of Rs.5100-6150. The applicant was repatriated to his parent department vide order dated January 30, 1992 with effect from April 1, 1992. The applicant has challenged the legality and validity of the action of the respondents in

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repatriating him before the completion of the tenure of five years. The applicant prays that he should be paid the difference in salary and other emoluments payable to him on the deputation post and the post on which he had been repatriated in the parent department.

2. The respondents have resisted the application, by *replying on facts as well as on law points.*
It is pointed out on behalf of the respondents that the deputation of the applicant was governed by the terms and conditions as mentioned in O.M. No. 2/12/87-Est.(Pay-II) dated April 29, 1988. The said O.M. has been issued under the provisions of F.R. 9(25). Para 11 of the aforesaid O.M. reads as follows :-

"11. Premature reversion of deputationist to parent cadre.

Normally, when an employee is appointed on deputation, his services are replaced at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving reasonable notice to the lending Ministry/Department and the employee."

Thus it is evident that an employee who is on deputation can be repatriated to his parent department after following the procedure of giving notice to the lending Ministry/Department and the employee concerned. It is undisputed position that in the instant case before repatriating the applicant the requisite procedure as laid down in the aforesaid O.M. has been followed.

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3. The contention ^{of the applicant is} that there was a contract between the applicant and the respondents to the effect that he shall serve on deputation for a period of five years, and if the tenure of five years is curtailed, it would amount to breach of contract and the applicant would be entitled to claim the difference in salary and other emoluments payable to him on the deputation post and the post in the parent cadre. The contention cannot be accepted. Even if it is assumed that there was a contract between the applicant and the respondents as regards the tenure of deputation, that contract itself contained a term which is in the shape of para 11 quoted above. As per this very contract the respondents have taken action. Therefore, there is no question of breach of contract.

4. We find no substance in the application. Hence, it is dismissed.

R. K. Ahooja
(R. K. Ahooja)
Member (A)

A. P. Ravani
(A. P. Ravani)
Chairman

/as/