

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA.808/92

Date of Decision: 29.05.1992

Shri Raj Paul Bhagria

Applicant

Mrs. Raj Kumari Chopra

Counsel for the applicant

Vs.

Union of India

Respondents

Shri P.H. Ramchandani

Counsel for the respondents

CORAM:

The Hon'ble Mr. T.S. Oberoi, Member(J)

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporters or not? *yes*

JUDGEMENT

(delivered by Hon'ble Member Shri B.N. Dhoundiyal)

This OA has been filed by Shri Raj Pal Bhagria, a member of Indian Economic Service, challenging the Department of Personnel and Training OM.No.27(34) EO/92(SM), dated 9.1.92 and Department of Agriculture and Cooperation endorsement dated 20.3.1992.

2. The applicant was selected for the post of Under Secretary in the Department of Agriculture and Cooperation vide Department of Economic Affairs Order No.13019/1/88-IES, dated 10.2.1989 and joined the Department of Agriculture and Cooperation as Under-Secretary on 1.3.1989. He claims that his tenure conditions were governed by earlier instructions which provided that the tenure of the officers appointed on Central Deputation as Under Secretary would be for a period of 3 years and the tenure would be terminated on the 31st May of the relevant year in which the prescribed normal tenure period is to be completed. Thus the tenure of applicant

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should have continued till 31.5.92, whereas vide order dated 18.3.92 rejected the representation of the officer for extension of his tenure of central deputation upto 31.7.92 and ordered that he should be relieved on 31.3.92, subject to his leave intention, if any. The applicant has prayed for quashing of the afore-mentioned impugned order dated 9.1.92 and 18.3.92 and issue of directions to the respondents to retain him in the present office atleast till 31.7.92.

3. When the matter came up for hearing on 26.3.92, the respondents were directed by this Tribunal, not to relieve the applicant till the next date of hearing. This interim order has been continued since then.

4. The respondents have stated that the post of Under Secretary and above under the Central Government are filled up under Central Staffing scheme by borrowing the services of officers belonging to All India Services, Central Service Group 'A' etc. on tenure deputation basis. These posts are not included in the cadres of the afore-mentioned services and the incumbent can be reverted to his parent department, as and when the Government so decided. In the approval of appointment of petitioner as Under Secretary conveyed to the Department of Agriculture and Cooperation, it was indicated that the appointment has been approved for a period upto 31.5.92 or until further orders, whichever is earlier. In the circular dated 9.1.92, the instructions were revised to provide that every officer would be entitled to a full tenure i.e. in the case of Under Secretary, three years, and shall revert at the end of this tenure on the exact date of completion of his tenure. The applicant has completed his tenure of three years on 29.2.92. The applicant cannot claim that he has been abruptly reverted to his parent cadre as his tenure was extended upto 31.3.92 i.e. two months after issue of revised instructions on 9.1.92.

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5. We have gone through the records of the case and heard the learned counsel for both the parties. The grounds on which the learned counsel for the applicant has pressed for the extension upto 31.7.92 are:

- (a) Disruption in the education of the applicant's daughter;
- (b) Dislocation and consequent hardships;
- (c) Non-completion of certain vigilance enquiry entrusted to the applicant.

6. The respondents have contended that it is after taking into account the requirements of officers to continue till the end of academic year that instructions have been issued for allowing them to revert by 31.5.92, even before completion of the prescribed tenure period. As regards non-completion of the vigilance enquiry, it is for the Government to consider as to how best this work will be completed.

7. It is well settled that transfer is an incidence of service and it is not for the Courts to interfere in these matters, unless the applicant is able to prove arbitrariness or malafide. This is more so in the case of tenure ^{pushings by} ~~conditions~~ where the instructions received from time to time are sought to be uniformly applied in all the offices. According to the latest instructions, the officer should be reverted to his parent department after completion of three years. However, taking into account the fact ^{that} ~~that~~ the learned counsel for the respondents have already agreed, his term of deputation can be extended upto 31.5.92, we direct that orders giving such an extension be issued forthwith.

8. The interim order issued on 26.3.92 is hereby vacated. The parties shall bear their own costs.

(B.N. DHOUNDIYAL)
MEMBER(A)

29/5/92

(T.S. OBEROI)
MEMBER(J)