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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2140 of 1993

New Delhi this the 18th day of November, 1993

Shri B.N. Dhoundiyal, Member(A)

Shri B.S. Hegde, Member(J)

Shri Desraj
Deputy Director of Training,
DGET,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.

...Applicant

By Advocate Ms. Raman Oberoi

Versus

1. Secretary,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
2. Directorate General of
Employment and Training,
Joint Secretary,
DGET,
Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi. ...Respondents

Shri P. Bhattacharya, Assistant on behalf of the respondents.

O R D E R (O R A L)

Shri B.N. Dhoundiyal, Member

The issue raised in this O.A. pertains to promotion and transfer and as the applicant has not been granted any interim relief and was advised to proceed on leave, we feel that this case can be disposed of at the admission stage itself and we hereby proceed to do so.

2. The admitted facts are these. Vide order dated 09.03.1993 Shri Desraj was promoted as Joint Director of Training Hi-Tech Apex Institute Bangalore. Vide another order dated 10.03.1993 it was provided that Shri Des Raj, posted at Apex Hi-Tech Institute, Bangalore on promotion to the post of Joint Director

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of Training will look after the Hi-Tech Programmes in the Central Project Implementation Unit at DGET Headquarters, New Delhi. He was to draw his salary against the post of Joint Director of Training at Apex Hi-Tech Institute, Bangalore. Vide order dated 11.03.1993 his DN salary in the grade of Joint Director was fixed at Rs.4,700/- per month. On 15.03.993, the orders relating to his looking after Hi-Tech Programmes in the Central Project Implementation Unit at DGET Headquarters, New Delhi were cancelled and he was directed to report to the Director, Apex Hi-Tech Institute, Bangalore. In this order, the applicant has been designated as Deputy Director of Training. On 15.03.1993 another order was passed cancelling the pay fixation order dated 11.03.1993 and it was stated that his pay will be fixed on his assuming the charge of the post of Joint Director of Training at Bangalore. On 06.09.1993 he was informed that his representation against his transfer is rejected and he was directed to join as Joint Director at Bangalore latest by 30.09.1993 positively failing which the order of his promotion was to be cancelled and he was to be debarred from promotion to the post of Joint Director of Training for a period of one year from the date of issue of such letter (emphasis added). On 30.09.1993 another order was passed reliving Shri Des Raj from his duty at D.G.E.T. Headquarters from the post of Deputy Director from the afternoon of 4.10.1993 with the direction to report to the Director, Apex Hi-Tech Institute, Bangalore after availing of the admissible joining time. It is also stated that if he did not join

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at the place of posting within the stipulated period, disciplinary proceedings for disobedience of orders will be taken against him.

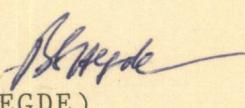
3. The learned counsel for the applicant has argued that the promotion orders dated 9.3.1993 and 10.03.1993 clearly indicate that he was promoted and joined that promotion post at Delhi looking after the Hi-Tech Programmes in the Central Project Implementation Unit though drawing his salary from the Apex Hi-Tech Institute, Bangalore. According to her, the applicant could not be reverted unless the respondents followed the due procedure prescribed under the rules.

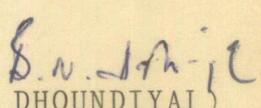
4. In the counter-affidavit filed by the respondents, they have denied this contention on the ground that he was originally posted at Apex Hi-Tech Institute, Bangalore only by the order dated 9.3.1993 and the order dated 10.03.1993 was only to facilitate early ^{for} ~~for~~ him payment of financial benefits. They have also stated that the question of repromoting the applicant has never arisen since he had never been reverted. As regards his pay, it was never argued nor was it mentioned anywhere that he will not be entitled to pay in the grade of Joint Director. Had he joined at Bangalore, his pay would have been fixed as Joint Director of Training as per the rules.

5. Having considered the arguments put forward by the learned counsel for the applicant as well as those contained in the counter-affidavit filed by the respondents, we are of the view that the respondents cannot be faulted ^{for} ~~for~~ posting the applicant at Bangalore on his promotion. However, some uncertainty was created by them vide orders dated 10.3.1993 which allowed him to submit a joining report as Joint Director looking after the work of the Hi-Tech Programmes in the Central Implementation Project at New Delhi though drawing his ^{for} ~~for~~ pay from the Institute at Bangalore. Once this was

done, it cannot be contended that the applicant had not joined the promotional post of Joint Director. It is doubtful that in such a case orders which amount to reduction in rank can be passed without conducting any inquiry. Without adjudicating on this issue, we think that it would be in the interest of justice to dispose of this application at the admission stage itself with the following directions:-

- (1) The applicant will be allowed to join as Joint Director at Bangalore within a period of 10 days from the date of receipt of this order.
- (2) Once the applicant joins at Bangalore, he will submit a representation to the authorities for regularising his leave salary on the basis that he was allowed to join as Joint Director at the Headquarters itself vide order dated 10.03.1993. In case he had worked as Joint Director for sometime, his leave salary will also be regulated according to the rules. In this connection, it is clarified that till such time his representation is considered and speaking orders passed, the order dated 15.03.1993 will not be given effect to.
- (3) The applicant may also represent about his personal difficulty and about his claims under the guidelines provided in O.M. dated 21.8.1989 regarding posting of SC/ST officers issued by the Department of Personnel & Training to the respondents, who will consider it sympathetically for any future vacancy.
- (4) There will be no order as to costs.


(B.S. HEGDE)
MEMBER (J)
18.11.1993


(B.N. DHOUNDIYAL)
MEMBER (A)
18.11.1993