

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
Allahabad Bench, Allahabad.

....

original Application No. 403 of 2001.

this the 15th day of May 2001.

HON'BLE MR. S. DAYAL, MEMBER (A)
HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

V.N. Pandey, S/o Sri S.N. Pandey, aged about 34 years, R/o
Kendranchal Colony, Type III/73, Naubasta, Kanpur.

Applicant.

By Advocate : Sri O.P. Gupta.

Versus.

Director Small Industries Service Institute, Kanpur, 107
Industrial Estate, Kalpi Road, Kanpur.

2. Development Commissioner, Small Scale Industries, Nirman
Bhawan, New Delhi.

3. Union of India through Secretary Ministry of Small Scale
Industries, Government of India, New Delhi.

Respondents.

By Advocate : Sri R. Choudhary.

O R D E R (ORAL)

S. DAYAL, MEMBER (A)

This application has been filed for setting-aside the impugned order dated 3.4.2001 passed by the respondent no.1. A further prayer has been made seeking directions to the respondents not to curtail the extended tenure of the applicant upto 30.6.2001 as decided by order dated 27.12.2000.

2. We have heard the learned counsel for the applicant and the respondents namely Sri O.P. Gupta and Sri R. Choudhary respectively.

3. We find that by the impugned order dated 3.4.2001, the respondent no.1 passed the following order:-

"Consequent upon completion of deputation period and as per the instruction of the DC (SSI), New Delhi, Sri V.N. Pandey, Sr. Accountant of this office (on deputation) stands relieved w.e.f. 4th April, 2001 (Afternoon) with the instruction to report for duty to the Accounts Officer (Admn-I), O/O the Accountant General (A.E.) I Madhya Pradesh, Lekha Bhawan, Gwalior."

4. We also find that the applicant was sent on deputation to the office of the respondent no.1 by order dated 19/20.11.1996 for a period of one year. The period of deputation was ordinarily three years and would be extended to a maximum of five years. As per the condition nos. 3 & 4 of this order that before sending back the applicant from his present posting on deputation to the office of Accountant General, Madhya Pradesh, Gwalior, the borrowing office shall ascertain the position from the lending office. Another condition in regard to at item no. 6 in the said letter requires prior consent of the lending office before relieving the applicant by the borrowing office. It appears that the period of deputation was extended from year to year. It also appears that the permission from the office of Comptroller and Auditor General of India was obtained for extension of the tenure of deputation of the applicant for a further period of one year from 20.11.2000 to 19.11.2001, and this deputation was to be without deputation duty allowance. The applicant, however, vide his letter dated 18.12.2000 informed the respondents that he had applied for extension of deputation for further period of one year, which had been approved by his parent department. He, however, would like to get the deputation period extended only upto 30.6.2001 as he would not like to leave Kanpur in mid session because his children who are studying in Junior and Primary Classes. The respondents by letter dated 18.12.2000 wrote to the office of Joint Development Commissioner, Small Scale Industries, New Delhi that he had no objection if the deputation is extended upto 30.6.2001. Thereafter, the office of the Development Commissioner, Small Scale Industries, New Delhi passed an order

on 27.12.2000.

5. We find no reason as to why the respondent no.1 suddenly decided to relieve the applicant w.e.f. 4.4.2001 by order dated 3.4.2001.

6. The learned counsel for the respondents has placed two arguments before us. The first one is that the applicant wanted to be relieved when the academic session is over. In ~~the opinion of~~ ^{the} ~~view~~ of the respondents, the academic session was over in April '2001, although the applicant has denied. In any way, ^{extend} when the respondents had themselves agreed to ~~fix~~ the period of deputation, they could not have suddenly decided to relieve the applicant on 4.4.2001.

7. The second contention of the learned counsel for the respondents is that the applicant has been relieved well in time as to join the parent department. The person on deputation is entitled to joining time which in ~~no~~ ^{no} case can be ~~extended~~ ^{construed to extend to nearly 1} ~~merely~~ two months. It was for the applicant to decide as to when he wanted to be relieved in order to enable him to join his parent department in time for education as well as keeping other factors in mind. It was not for the respondents to suddenly take a decision to get the applicant relieved w.e.f. 4.4.2001 ~~for~~ ^{on the ground of} ~~his convenience~~ ^{convenience}. This period is un-reasonable and arbitrary.

8. The last contention made by the learned counsel for the respondents was that the period of deputation upto ^{been} 30.6.2001 was the maximum, which could have ^{allowed to the} ^{within their} applicant and that the respondents were perfectly rights to relieve the applicant before that period. This argument would have been tenable if the respondents have consulted from the office of the parent department of the applicant and ensured that the parent department was in a position to receive him earlier. We find that the impugned order dated

3.4.2001 has been issued without such consultation.

9. We, therefore, find that the order dated 3.4.2001 cannot be sustainable from any point of view and deserves to be set-aside. We, therefore, set-aside the order dated 3.4.2001 and direct the respondents to allow the applicant to join and to remain on the post till 30.6.2001. The applicant shall be entitled to the salary from 4.4.2001 onwards to be paid by the respondent no.1.

10. The O.A. stands allowed as above with no order as to costs.

D. M. Girish

MEMBER (J)

GIRISH/-

H. S. Ganguly

MEMBER (A)