

[Open Court]

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH ALLAHABAD

THIS THE 25TH DAY OF AUGUST, 2011

Present:-

HON'BLE MR. JUSTICE S. C. SHARMA, J.M.

Original Application No. 985 of 2007
U/s 19, Administrative Tribunal Act, 1985

B. D. Brahmchari, S/o Late Tulsi Ram, Deputy Director (Chemistry)
Regional Pesticide Testing Lab, Kanpur, T-2 Ratan Lal Nagar, Kanpur.

.....Applicant

VERSUS

1. Union of India through Secretary Ministry of Agriculture
Government of India, Department of Agriculture and Co-
Operation Krishi Bhawan, New Delhi.
2. The Plant Protection Adviser to the Government of India.
Directorate of Plant protection quarantine and storage N.H-IV-
Faridabad (Haryana).
3. The Under Secretary, Directorate of Plant Protection quarantine
and storage N.H-IV Faridabad (Haryana).

.....Respondents

Advocate for the Applicant:- Sri C. Prasad

Advocate for the Respondents:- Sri S. M. Mishra

O R D E R

Instant O.A. has been instituted for the following reliefs:-

"a/- to issue an order or direction quashing partially the order dated 14.9.2006 only with respect to transfer of the applicant from R.P.T.L. Kanpur to N.P.P.T.I, Hyderabad.

b/- to issue an order or direction directing the respondents to give posting at the vacant post of Joint Director (Chem) at Kanpur.

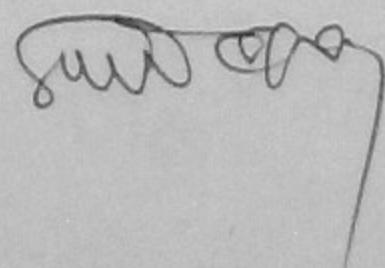
c/- to issue any other order or direction which may deem fit and proper in the circumstances of the case.

d/- award the cost of the petition in favour of applicant."

S. C. Sharma

2. It has been alleged by the applicant in the O.A. that the applicant was due for promotion and vide order dated 14th September, 2007 the applicant was promoted on the post of Joint Director (Chemistry) and transferred from Kanpur to Hyderabad. It has also been alleged by the applicant that four posts were lying vacant at different places one at Kanpur, one at Chandigarh and two posts in Headquarter at Faridabad. That the eight months services of the applicant remained in superannuation and the applicant was due for retirement in the month of June, 2008 and as per rules if an employee has got two years service in superannuation then such an employee either should not be transferred or shall be adjusted at the place of his ^{choice} joining/near the home town, but the respondents have not considered the applicant in posting at Kanpur or near by station and they promoted the applicant and transferred to Hyderabad.

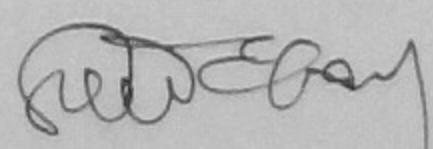
3. On behalf of the respondents Counter was filed and the respondents disputed the allegations made in the O.A.. It has also been alleged that the applicant had rightly been transferred from Kanpur to Hyderabad as per administrative requirement. It has also been alleged that there were five vacant posts of Joint Director (Chem.) at present, two posts are vacant at Faridabad, one each at Kanpur and Chandigarh and Hyderabad. And on Administrative



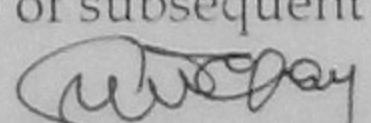
exigency the applicant was transferred at Hyderabad and the applicant was expected to obey the order of transfer.

4. I have heard Sri C. Prasad, Advocate for the applicant and Sri Sesh Mani Mishra, Advocate for the respondents and perused the entire facts of the case.

5. As it has been averred in the O.A. that the applicant shall retire in the month of June, 2008 and now it is 2001 and admittedly, the applicant had retired on superannuation in the month of June, 2008. The relief has been claimed that the transfer order dated 14th September, 2006 be quashed in respect of the transfer of the applicant from Kanpur to Hyderabad. Further prayer has also been made for giving a direction to the respondents to give posting at the vacant post of Joint Director (Chem.) at Kanpur. In view of the subsequent change of circumstances both the reliefs have become redundant. The applicant had retired in the month of June, 2008. Moreover, on 05th October, 2007 at the time of filing the O.A. interim relief was granted in favour of the applicant to the effect that the status quo as on today shall be maintained for 14 days, thereafter, this transfer order continued to be extended. The learned counsel for the applicant stated that during the pendency of this O.A. and inspite of the fact that the transfer order of the applicant was stayed, the applicant was put under suspension.

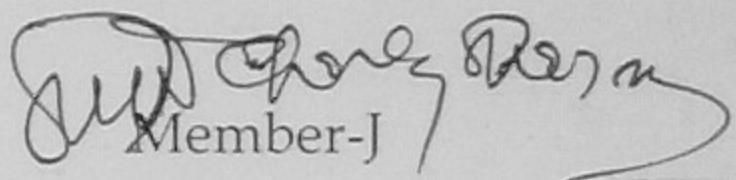


And for that grievance applicant had filed separate O.A. No. 254 of 2008 and this grievance of the applicant shall be redressed in that separate O.A.. Moreover, regarding matter of promotion shall also be adjudicated either in the subsequent O.A. or fresh cause of action accrued in favour of the applicant to adjudicate the matter of his promotion. Because in the present O.A. admittedly, the applicant was promoted as Joint Director, and was posted at Hyderabad but the applicant did not avail that order of promotion and as the applicant ^{was} ~~was~~ put under suspension subsequently, hence the matter of promotion remained un-adjudicated. But as the reliefs claimed to quash the order of transfer as well as his posting as Joint Director, Hyderabad does not survive now, as the applicant had already retired on superannuation, hence no useful purpose is going to be served by quashing the transfer order and the applicant continued to remain at Kanpur on the strength of order of status quo. Moreover, no prayer has been made for directing the respondents to give promotion as is evident from the fact that the applicant was entitled to be promoted on the post of Joint Director and no order has been passed till date denying the applicant from promotion and due to certain other reasons the applicant was put under suspension and this order of suspension is to be adjudicated in separate O.A.. If the order suspension is quashed then automatically applicant will be deemed to be promoted, but it is interrelated with the fate of subsequent O.A..



6. For the reasons mentioned above I am of the opinion that the O.A. in the present form is not maintainable and the reliefs which have been claimed in the O.A. cannot be granted as the applicant had already retired in the month of June, 2008, and moreover, the order of suspension is under challenge in separate O.A.. Under these circumstances this O.A. does not survive and is liable to be dismissed.

7. O.A. is dismissed. No order as to costs.


Member-J

/Dev/