

FORM NO.4

(See Rule 12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORDER SHEET

Application No. OA..... 90 of 1999

Applicant (s) Milan Kumar Mohanty Respondent (s) U.O.I. 808

Advocate for Applicant (s) S. Palit Advocate for Respondent (s)

Mr. Mallick

CR Lenka

L Genc

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

REGISTER

B. Nayak
By, Registrar

ORDER NO. 1, DATED 08-03-1999.

This matter has been taken up today, in the morning on being mentioned by the learned counsel for the Applicant.

Seen the petition. Heard Mr. S. Palit, learned counsel for the applicant and Shri B. K. Nayak, learned Additional Standing Counsel (Central) on the question of admission of this Original Application as also on the question of interim relief. In this Original Application, the final relief claimed is for quashing the order dated 29.1.1999 and 30.1.1999 terminating the deputation period of the applicant to National Aluminium Company Limited (NALCO) as Chief Vigilance Officer. The second prayer is for a direction to extend the period of deputation of the applicant as Chief Vigilance Officer, NALCO for a period of five years. By way of interim relief, it has been prayed that a direction be issued to the Respondents to permit the applicant to continue in his

J. JMM

B. Nayak
8-3-99
SOLB. Nayak
8-3-99

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

✓ post at NALCO as an interim measure.

We have heard Shri S. Palit, learned Counsel for the applicant and Shri B.K. Nayak, learned Additional Standing Counsel (Central) on whom a copy of the petition has been served, on the question of admission of this application as also on the question of interim relief.

The facts of this case, according to the applicant, are that he is an IPS Officer of 1971 batch belonging to Jammu & Kashmir cadre. He came on deputation to Paradeep Phosphates Ltd. (PPL) as Executive Director (Vigilance)/Chief Vigilance Officer (CVO) while in his parent cadre, he was working as DIG. While, he was working as Chief Vigilance Officer, Paradeep Phosphates Ltd. he was promoted to the Post of IG w.e.f. 30.6.1994. His tenure in Paradeep Phosphates Ltd. was from August 1990 and in June, 1995, applicant went on medical leave till December, 1996. In January, 1997, applicant was appointed as Executive Director (Vigilance) cum Chief Vigilance Officer at Nalco and joined on 30.1.1997. The deputation order at Annexure-4 indicates that this deputation was for a period of two years from the date of his joining at NALCO. Applicant's case is that according to the guidelines relating to the posting of CVOs (Annexure-1) dated 7th February, 1992, issued by the Department of Personnel & Training, the tenure of an Officer in the post of CVO should be for a period of five years irrespective of the grade of the post and the service to which the officer belongs. It is also laid down that no other tenure rules would be applicable for this purpose. This instruction was

S.Jm

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

3

fur^{ther} modified in order dated 7th August, 1998 at Annexure-2, wherein it was indicated that the initial period of deputation of an officer to the post of CVO should be for three years in the Public Sector Undertakings extendable upto a further period of two years in the same Public Sector Undertakings (total maximum five years), with the approval of the Central Vigilance Commission or upto a further period of three years on transfer to another Public Sector Undertaking on completion of initial deputation tenure of three years in the previous Public Sector Undertakings. The applicant's case is that in violation of the instruction at Annexure-1 and more particularly, at Annexure-2, his tenure ~~was~~ of deputation has been sanctioned for a period of two years from 31.1.97. Even though the Authorities at NALCO and the Ministry of Mines have recommended the question of his extension of deputation for one year more, the Ministry of Home Affairs, has not given the cadre clearance for extension of his deputation on the ground that he has ^{been away from} ~~is~~ his parent cadre for a long time from 1990. Accordingly the applicant has been relieved and handed over the charge of the post of Executive Director cum Chief Vigilance Officer, NALCO to Executive Director, Marketing on 31.1.1999 and he is currently on leave. He states that a direction be issued to the Respondents more particularly Respondents 5 and 6 to allow him to continue as Executive Director (Vigilance) Cum Chief Vigilance Officer at NALCO. As the NALCO is not under our jurisdiction, it would not be proper and within our power to issue such a direction to the Authorities at NALCO. His final prayer is also connected with his

J. J. M.

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

free copy of the Order dt. 8-3-99 may be given to the counsels for both sides.

Feb
8/3

Reefer
18-3-99
S.O.

Copied to the other concerned parties
18-3-99

Notice with copy of the Order No. dt. 8. 3. 99 may be sent to all resps. by regd. Post/AD.

Patra
18/3/99

S.O.

A copy of the order dt. 8. 3. 99 with 0. 11 copies may be sent to all opp. parties by regd. Post.

Feb
8/3

Reefer
18-3-99
S.O.

prayer for continuation in NALCO as Executive Director (Vigilance) Cum Chief Vigilance Officer.

In view of this, we hold that this Tribunal does not have the jurisdiction to deal with the Original Application as also the interim prayer. The Original Application and the prayer for interim relief is accordingly rejected at the admission stage itself.

S. Jam
18-3-99
VICE-CHAIRMAN

MEMBER (JUDICIAL)