

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.338/09

Tuesday this the 4th day of August 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

U.Sabjan,
S/o.late Majeed,
Junior Accounts Officer,
Pay and Accounts, Field Pay Unit,
Agatti, U.T of Lakshadweep.Applicant

(By Advocate Mr.R.Ramdas)

V e r s u s

1. The Administrator,
Union Territory of Lakshadweep, Kavaratti Island.
2. The Secretary (Pay & Accounts),
Principal Pay & Accounts Office, Kavaratti Island.
3. The Director (Services),
Kavaratti Island, U.T of Lakshadweep.
4. M.Poonkunhi,
Accountant, PWD Circle Office,
Office of Superintending Engineers – PWD,
Kavaratti, U.T of Lakshadweep.Respondents

(By Advocate Mr.S.Radhakrishnan [R1-3])

This application having been heard on 4th August 2009 the Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant who is Accountant with the Respondent Administration and presently working as JAO on deputation is aggrieved by the Annexure A-3 order dated 18.5.2009 by which the respondents have promoted four Accountants including him to the post of Superintendent on ad hoc basis in the pay band of Rs.9300-34800 plus grade pay of Rs.4200 with immediate

B

effect and transferred and posted him from Field Pay Unit, Agatti to Vigilance Cell, Secretariat, Kavaratti. The applicant has submitted that the aforesaid impugned order is arbitrary and unreasonable for the reason that his wife is working as Lady Village Extention Officer in the Agatti Island and his children are studying in the Agatti Island and he will be put to irreparable injury and hardship if he is transferred all of a sudden from Agatti Island to Kavaratti Island. He has further submitted that the respondents have issued the Annexure A-3 order to accommodate the 4th respondent who is very influential in Agatti Island. Further, the respondents have not considered the Annexure A-1, Annexure A-2 and Annexure A-4 representations to the extend the deputation period in the post of Junior Accounts Officer at Agatti Island by one more year or to absorb him in the post of Junior Accounts Officer, Pay and Accounts Department. The inaction on the part of the 1st respondent in considering those applications is unjustified. His further submissions is that he is the only eligible and qualified candidate willing to work as JAO at Agatti and that the 4th respondent is not qualified to hold that post.

2. The respondents in their reply has submitted that the applicant is a regular incumbent in the post of Accountant and similar grades. He has been appointed on deputation basis to the post of JAO in the Pay and Accounts Office in accordance with the existing Recruitment Rules. He joined the Pay and Accounts Office as JAO with effect from 15.6.2005. He is also under orders of promotion to the post of Superintendent Grade in his parent cadre which is the promotion post of Accountant Grade ie. Assistant/Senior Auditor/Accountant/Head Clerk which have higher responsibility than that of Accountant Grade. They have further submitted that if the applicant is not interested in ad hoc promotion he has the option

.3.

to decline the same. But he has no legal right to continue in the present deputation post beyond the permissible period of four years which has already been completed on 14.6.2009. As regards the case of one Shri.M.Sayed Mohammed Koya whose deputation period of four years was extended is concerned, he was permitted to remain on deputation beyond the period of four years because no one was willing to take up the assignment as JAO at Kochi. However, in the place of the applicant, a fresh deputationist, namely, Shri.M.Pookunhi, the 4th respondent herein, has already been offered appointment. The respondents have also relied upon the instructions issued by the Government of India in this regard vide Office Memorandum dated 29.11.2006 (Annexure R-1[C]). Shri.S.Radhakrishnan appearing on behalf of the respondents has specifically invited my attention to the sub para 2 & 3 of para 1 of the said O.M which reads as under :-

2. The deputationist officer including those who are presently on deputation would be deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. It will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In cases where offices are on deputation on the date of issue of these orders and the normal tenures are getting over in a period of six months, the concerned officers/Organisations may be allowed an extension of not more than one month on a case to case basis with the approval of the DOPT.

3. That in the event of the officer overstaying for any reason whatsoever, he is liable to disciplinary action and other adverse civil/service consequences which would include that the period of unauthorised overstay shall not count against service for the purpose of pension and that any increment due during the period of unauthorised overstay shall be deferred with cumulative effect, till the date on which the officer rejoins his parent cadre.

3. I have perused the documents available on record and also heard Shri.R.Ramdas for the applicant and Shri.S.Radhakrishnan for the respondents. It is settled law that the deputationist have no right whatsoever on the deputation post beyond the permissible period as

✓

.4.

allowed under the rules. Deputation is generally for a period of three years which can be extended by another year with the consent of the lending department and the deputationist himself. In the present case, the applicant has already completed the prescribed period of four years on 14.6.2009. In my considered opinion he has no right whatsoever to continue in the said deputation post. Further, the respondents have already selected Shri.M.Pookunhi, the 4th respondent, as the successor of the applicant to the post of JAO in the office of the Pay and Accounts Office, Agatti. The respondents have also issued appointment letter to him but he was prevented from joining the said post only because of the interim order passed by this Tribunal on 29.5.2009 directing the respondents not to relieve him until further orders. It is also my view that it is not for the applicant to bother whether the candidate who was selected in his place was qualified to hold that post or not. So long as the applicant has no right to continue in the present deputation post beyond 14.6.2009, he has to be reverted to his parent cadre.

4. In view of the above position, the O.A lacks merit and it is dismissed accordingly. The interim order dated 29.5.2009 is vacated. There shall be no order as to costs.

(Dated this the 4th day of August 2009)


GEORGE PARACKEN
JUDICIAL MEMBER

asp