

Central Administrative Tribunal, Lucknow Bench, Lucknow.

O.A. No.365/2007

This the 24th day of July, 2008

Hon'ble Shri A.K.Gaur, Member (J)
Hon'ble Dr. A.K.Mishra, Member (A)

Smt. Anita Parsed aged about 35 years wife of Sri Arun Srivastava, resident of D-1021, Indira Nagar, Lucknow.

Applicant

By Advocate: Sri A. Moin

Versus

1. Union of India through Secretary, Department of Personnel and Training, New Delhi.
2. Central Bureau of Investigation, New Delhi through its Director.
3. Dy. Director (Administration), Central Bureau of Investigation, New Delhi (Competent Authority)
4. Superintendent of Police, CBI, Special Crime Branch, Lucknow.
5. Bihar Police through its Director General of Police, Patna.
6. Inspector General of Police (Karmik) Bihar Office of the Director General of Police, and IGP, Patna, Bihar.

Respondents

By Advocate: Sri K.K.Shukla

ORDER

By Hon'ble Dr. A.K. Mishra, Member (A)

Heard both the counsels for the parties.

2. This Application has been directed against the order dated 12.7.21007, repatriating the applicant from CBI to her parent cadre by the competent authority of the CBI. The applicant has also challenged her relief order dated 19.7.2007 made by the Superintendent of Police, CBI,SCB, Lucknow.

3. The applicant was working as a Sub Inspector in Bihar Police. She was selected for appointment as Sub Inspector in the Central Bureau of Investigation on deputation basis for a period of 3 years upto 14.6.2002. Even after expiry of the deputation period, the applicant continued in the CBI on extension from time to time. Meanwhile, she was also promoted as Inspector in the CBI. Her deputation was last extended upto 14.6.2007.

4. The applicant requested for further extension of deputation and the matter was referred to Bihar Police for their comments. The no objection certificate (NOC) from Bihar police was at last received by SP, CBI,SCB, Lucknow on 9.7.2007. It was

referred to CBI Headquarters, New Delhi on 12.7.2007 by a letter issued by SP, CBI, SCB, Lucknow. However, by that time this letter could reach the Headquarters of CBI, the competent authority had already passed orders for her repatriation to the parent cadre which was communicated to SP, CBI, SCB, Lucknow vide Headquarter's letter dated 12.7.2007 and on that basis she was relieved on 19.7.2007. Thereafter, she made representation to the competent authority of CBI and her representation was rejected on the ground that orders for repatriation had already been passed by the time, no objection certificate was received at their level. Further, since she has already been relieved from CBI, she was advised to apply afresh through proper channel, in case she was interested in joining CBI again.

5. The learned counsel for the applicant submitted forcefully that the letter conveying no objection from the parent cadre controlling authority was already received at the level of SP, CBI, SCB, Lucknow before the relief. Therefore, it was incorrect to pass repatriation order on the ground that there was no such consent from the Bihar police. Further, it was contended that she had already worked 3-1/2 years as an Inspector in CBI and as per guidelines of CBI, she would have been eligible for permanent absorption in CBI, had she completed 4 years of service as an Inspector in the organization. It was submitted that the matter should be reconsidered by the competent authority of CBI for further extension of her term in the CBI. She has not yet joined her parent cadre and, admittedly, is remaining absent from her duties.

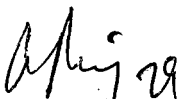
6. The learned counsel for the respondents submitted that the applicant had no right to continue on a deputation post beyond the tenure of deputation. She had already completed 9 years through various spells of extension of her deputation. As such, there was no right on her part to continue any more. From the Counter Affidavit filed by the respondents, it is seen that extension of tenure for the 9th year required approval of Secretary of the Administrative Ministry of CBI. Learned counsel for the respondents placed reliance on two decisions of Hon'ble Supreme Court in (i) 2007 (1) SC 597 in the case of U.P. Gram Panchayat Adhikari Sangh Vs. Daya Ram Saroj and (ii) JT 2005 (9) SC 422, Union of India Vs. Ram Krishnan in order to buttress the contention that a deputationist has no vested right to continue on a deputation post and a deputationist has no legal right to resist repatriation.




7. Admittedly the applicant had no right to continue on the deputation post and the competent authority of CBI had passed the orders for her repatriation on the basis of facts available at that time. By the time she represented that no objection certificate from Bihar police had been obtained, she had already been relieved from the CBI and she was rightly advised to apply for fresh induction into the CBI on deputation through proper channel. It is not the case that the Bihar Police refused to post her on her joining. As a matter of fact, she has not taken any steps to present herself before the parent cadre controlling authority and if she has remained absent from duties on account of her own fault, she cannot take the plea of non acceptance of her joining by Bihar Police as a ground.

8. As regards permanent absorption in CBI, the circular dated 27.9.2006 (Annexure 16 to the application) on which reliance is placed by the applicant relates to such officers who had completed 4 years of service as Inspector in CBI by 31.12.2005 giving willingness for permanent absorption. Admittedly, this is not the case with the applicant.

9. In the facts and circumstances of the case, we do not find any merit in this application which is accordingly dismissed. No orders as to costs.


Member (A)


Member (J)

HLS/-