

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 130/96

Date of Decision 16-2-96

Chakraborty Biswanath Petitioner

Shri G.K. Masand Advocate for the Petitioner.

versus

Union of India & 2 Ors. Respondent

Shri V.S. Masurkar Advocate for the Respondents.

Coram:

The Hon'ble Mr. B.S. Hegde, Member (J)

The Hon'ble Mr. P.P. Srivastava, Member (A).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?

abp.

B.S. Hegde
(B.S. HEGDE)
MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO.6, PRESCOT RD., 4th FLOOR,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO. 130/96.

DATED THIS 16th DAY OF FEBRUARY, 1996.

CORAM : Hon'ble Shri B.S.Hegde, Member (J).

Hon'ble Shri P.P.Srivastava, Member (A).

Chakraborty Biswanath ... Applicant
(Advocate by Shri G.K.Masand)

v/s.

Union of India and two Ors. ... Respondents
(Advocate by Shri V.S.Masurkar)

ORDER

¶ Per Shri B.S.Hegde, Member (J) ¶

Heard Shri G.K.Masand, Counsel for Applicant
and Shri V.S.Masurkar, Counsel for Respondents.

The main contention of the applicant in this OA is seeking a direction to the respondents to relieve the applicant from the post of Supervisor in Currency Note Press, Nashik, by retaining his lien in the post of Supervisor so as to enable him to take up the appointment as Manager (Production) with Bharatiya Reserve Bank Note Mudran Pvt. Ltd. as per the offer of appointment dated 11/12/95. He further states, that he has been directed to join the new posting by 15/2/96.

2. Respondents have filed their reply negativing the contention of the applicant stating that the respondents as back as on 9/5/95 had informed the applicant that in the even of his selection, to the post of Manager (Production) he will have to resign from the

existing post before joining the post applied for. Further, Ministry vide telegram dated 14/3/95 reiterated in their telegram at Exhibit-R-1 that Officers/Workers may be allowed to apply for various posts advertised by N N P on direct recruitment basis but in case of their selection, they will have to resign from the existing post before joining N N P. There is no question of relieving anybody on deputation basis.

3. The Learned Counsel for Respondents, Shri Masurkar draws our attention to condition laid down in the CCS Pension Rules 1972 where in it is clearly laid down that

"No lien of the Government servant concerned will be retained in his parent cadre. All his connections with the Government will be severed on his release for appointment in an enterprise and he will not be allowed to revert to his parent cadre."

Further it envisages in para 4.1

"Resignation from Government service with a view to secure employment in a Central public enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicable to him in his parent organisation."

That being the position, the applicant is left with no other alternative but to resign from the parent department, in case he desires to join the new posting. He will be eligible to terminal allowances

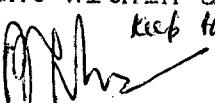
and pension which accrued to him in his parent department.

4. The Learned Counsel for Applicant, Shri Masand urged that he is not seeking any deputation nor any cadre benefits from the parent department but his resignation to the parent department may be treated as technical resignation as was done in the case of Shri S.Mohan as Manager Maintenance who belongs to the same organisation and was allowed to retain the lien with the Government of India, similar direction may be given to respondents to pass such order. However, in the instant case, since the applicant has already been informed as back as in May, 95 that in case of his selection he will have to resign. In view of the provisions referred to above, by resigning from the post he would not be loosing any pension accrued to him from his parent department.

5. In the circumstances, we are not inclined to give any interim direction to the respondents directing them to keep his lien in parent department and relieve him forthwith.

6. In so far as the lien granted to Shri S.Mohan, the third respondent has not filed any detailed reply. In the circumstances, OA is admitted.

Third Respondent is directed to file reply as to why such similar benefits should not be given to applicant within a period of two months from today.


(P.P.SRIVASTAVA)
MEMBER(A)


(B.S.HEGDE)
MEMBER(J)

abp.

Keep the case before Registrar on 21/3/96