

(236)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 1050/95

Date of Order: 7-9-95

Between:

S.R.Mahapatra.

.. Applicant.

and

1. The Container Corporation of India
(A Govt.of India undertaking)
New Delhi, rep. by its
Managing Director.
2. The Union of India,
Ministry of Railways,
Railway Board, Railbhavan,
New Delhi rep.by its
Secretary(E).

.. Respondents.

For the Applicant: Mr. V.Rajagopala Reddy, Advocate.

For the Respondents: Mr.G.Ramachandra Rao, Advocate for R-1

Mr.N.R.Devraj, SC for Rlys for R-2.

CORAM:

THE HON'BLE MR.JUSTICE V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR.A.B.GORTHY : MEMBER(ADMN)

JUDGEMENT

I As per the Hon'ble Justice Sri V. Neeladri Rao, I
I Vice Chairman I

The applicant, an officer of Railways was deputed to R-1 Corporation by order dt. 10-8-92 and he assumed charge under R-1 on 9-9-92. The period of 3 years deputation is coming to an end ~~from~~ ^{on} 9-9-95.

2. The applicant was sent by R-1 Corporation for training on 22-5-95 and returned on 29-7-95. Sri G. Ramachandra Rao, the learned counsel for R-1 submitted that the applicant along with five others were sent for training to Europe and Far East countries at the instance of the Netherlands Government.

3. While it is the case of R-1 that when the applicant ~~aggrieved~~ ^{red} for his posting at Ludhiana, the former requested the R-2, Railways to extend the period of deputation of the applicant for two more years, it is stated for the applicant that when he was made to understand that he will be continued at Hyderabad, he had even expressed his willingness for absorption in R-1 Corporation. We do not wish to further advert to the same in the view which we have taken in this O.A.

4. When R-1 Corporation informed R-2 that on expiry of the period of deputation of the applicant on 8-9-95, the applicant will be repatriated, R-2 informed R-1 that the period of deputation will be over on 9-8-95. But again on the acceptance of clarification given by R-1, R-2 informed R-1 that the period of deputation expires on 8-9-95 and they are agreeable for repatriation.

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38

5. On 25-8-95 R-1 repatriated the applicant, who was not attend^{ing} the office of R-1 from 22-8-95 by informing that he is not well, ~~that he is repatriated~~ with immediate effect.

6. This O.A. was filed praying for setting aside the order No.73/95 passed in No.CON/HRD/7(1)/1477, dt.25-8-95 of the 1st respondent whereby the applicant was repatriated with immediate effect, and for consequential direction to continue the applicant in R-1's Corporation pending receipt of orders from R-1 extending the period of deputation till 8-9-97.

7. When it is stated for R-1 that by letter dt.25.8.95 (exhibit R-VIII) the Railway Board agreed for repatriation of the applicant. It is pleaded for the applicant that the officer who had given that approval (Sri K.K.Roy) ~~who~~ is not competent to give such consent.

8. It is open to the borrowing department to repatriate an employee to the parent department/unit at any time by giving reasonable notice to the parent unit so as to enable the latter to give the necessary posting orders to the employee. But it is not open to the employee to challenge the order of repatriation passed by the borrowing organisation/department. Sri N.R.Devaraj, learned standing counsel for the Railways submitted that the applicant will be taken by the Railways, if he is going to report to the Dy.C.P.O.(Gazetted) in the office of the General Manager, S.C.R., Secunderabad tomorrow i.e. 8-9-95. Hence, there is no need to consider for the disposal of this O.A. as to whether Sri Roy is competent to give 'no objection' as per Annexure R-VIII letter, dated 25-8-95.

To

1. The Managing Director,
Container Corporation of India,
(A Govt. of undertaking) New Delhi.
2. The Secretary(E) Ministry of Rlys,
Railway Board, Rail Bhavan,
Union of India, New Delhi.
3. One copy to Mr.V.Rajagopala Reddy, Advocate, 3-5-942
Himayatnagar, Hyderabad.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One copy to G.Ramachandra Rao, Advocate, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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29

9. It is also necessary to consider about the position of the applicant from 25-8-95 to 8-9-95. As no record is produced for the respondents to indicate that the R-2 agreed for repatriation of the applicant even prior to ⁸⁻⁸⁻⁹⁵ ~~9-8-95~~ and as the applicant ^{was not attending office} from 22-8-95, it is just and proper for R-1 to treat the period from 22-8-95 to 8-9-95 as leave to which the applicant is entitled to. For the purpose, the applicant has to file the necessary leave application before R-1 and the same has to be considered by R-1 in accordance with law/rules.


10. It is needless to say that the applicant will be treated as on duty in Railways from 9-9-95, if he is going to report along with a copy of this order before Dy.C.P.O. (Gazetted) in the office of the G.M., SCR, Secunderabad on 8-9-95.

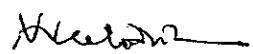
11. ~~Mr. Ramachandra Rao.~~ learned counsel for R-1 raised the plea of jurisdiction of this Tribunal to entertain this O.A. ~~but since the~~ merits were considered, it is submitted that the plea of jurisdiction is not pressed.

12. In the result the O.A. is ordered as under:

The applicant has to be treated as on duty in the Railways from 9-9-95, if he is going to report along with a copy of this order to Dy.C.P.O. (Gazetted) in the office of ~~General Manager~~ SCR, Secunderabad. The R-1 has to consider the application for leave of the applicant for the period from 1st September, 1995 to 8th September, 1995, and also the application for leave that was already submitted on 22-8-95 in accordance with law/rules.

13. The O.A. is ordered accordingly at the admission stage. No costs.//


(A.B. Gorthi)
Member (A)


(V. Neeladri Rao)
Vice Chairman

7th September, 1995
Open Court Dictation

C.C. today
7/9/95

Mr. J. Bench.

The Hon'ble Mr. Justice V. Neeladri
V. C.

The Hon'ble Mr. A.B. Gorshi M(A)

Judgment

OA 1050/95

Disposed of at the
admission stage

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