

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 476/2003

DATE OF ORDER: 17.10.2003

Jamuna Prasad son of Shri Sukh Ram aged about 47 years. Resident of 52/203, Sector-5, Pratap Nagar, Sanganer, Jaipur. Posted as Scientific Officer, -E WR, AMD, Jaipur

.... Applicant.

VERSUS

1. Union of India through the Chairman, Atomic Energy Commission and Secretary to the Government of India, Department of Atomic Energy, Anushakti Bhavan, CSM Marg, Mumbai.
2. The Director, Atomic Minerals Directorate for Exploration and Research, Department of Atomic Energy, 1-10-153-156, Begumpet, Hyderabad.
3. The Regional Director, Atomic Minerals Directorate for Exploration and Research, Western Region, Department of Atomic Energy, Sector-5, Pratap Nagar, Sanganer, Jaipur.

.... Respondents.

Mr. Hava Singh, Counsel for the applicant.

CORAM:

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

Hon'ble Mr. A.K. Bhandari, Member (Administrative)

ORDER (ORAL)

The applicant has filed this OA whereby praying for the following reliefs:-

- "(i) Quash and set aside the impugned order Annexure A/1 dated 31.12.2002, Annexure A/2 dated 04.07.2001 and Annexure A/3 dated 18.12.2001 with a further direction to the respondents that the applicant be assigned work as per his qualifications and experience so that he may have an opportunity to show his efficiency and work which consequently could be considered for the purpose of his further promotion.
- (ii) Issue further orders/directions as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of this case to inquire into the matter and fix responsibility on the erring officer/s for causing such a huge loss to the government.
- (iii) Award cost of the application/petition in favour of the applicant and against the respondents."

2. The grievance of the applicant is that the work should have been executed primarily by the CPWD. It should not be entrusted to the Housing Board, which is a secondary Agency. The second contention is that if the work is not allotted to him, his promotion aspect will be affected.

3. We have considered the submissions made by the learned counsel for the applicant.

4. The respondents vide order dated 31.12.2002 (Annexure A/1) have passed detailed order. It may also be mentioned that applicant has filed similar application on previous occasion, which was disposed of by this ^{bench with the} direction that the applicant may file representation and authority concerned shall dispose of the same by a speaking order. It is pursuant to the said direction given by this Tribunal that the applicant made a detailed representation and the respondents have decided the representation vide impugned order dated 31.12.2002 (Annexure A/1) ~~whereby~~ ^{parawise} reply to the contentions of the applicant in his representation dated 25.11.2002 is reproduced below:-

- "4.1 on his declaration as surplus in NPC and upon furnishing his willingness, Shri Jamuna Prasad was posted to AMD, WR Jaipur and accordingly, he had reported for duty in AMD on 1.6.2000. While the initial qualification of Shri Jamuna Prasad at the time of joining NPC in the grade of Scientific Assistant-E was Intermediate with Science and Diploma in Civil Engineering, he has subsequently passed Sections-A & B of the Institute of Engineers (India) in Civil Engineering branch.
- 4.2 This Directorate has no much information about his work assignment at NPC excepting self-appraisal recorded in his ACRs. Because the quantum of civil engineering work in SPC is more and that there are number of senior Civil Engineering discipline, Shri Jamuna Prasad might be working under the guidance of some senior officers.
- 4.3 In order to extend better amenities and service to the residents of MAD Township and to make optimum utilization of services of Shri Jamuna Prasad, a Repair & Maintenance Cell/Engineering Services Group was constituted to look after various maintenance jobs pertaining to AMD flats. Being the only civil engineer at AMD, Jaipur, it is not apt on the part of Shri Jamuna Prasad to deduce that his services were confined to preparation ~~of~~ estimates for minor civil works alone. Undoubtedly, it is a part and parcel of his day-to-day duties and he should have inclination towards that. Treating the said job as inferior and aspiring for other jobs by not attending to the assigned duty is also not in the interest of the organisation.
- 4.3.1 It is a fact that Shri Jamuna Prasad was made a member of the Project Committee vide order No. AMD/C&ESG/2001 dated 4.7.2001 of the then Director, AMD to render his own share of expertise in construction. Reconstitution of the said Committee vide order No. AMD/C&ESG/2001 dated 18.12.2001 was for effective utilization of services of members on the the Committee and it does not mean that he is not assigned with work conforming to his qualification and experience, which are pre-requisites only at the time of recruitment. Right from the beginning, the work pertaining to construction

of office-cum-laboratory complex is being looked after by C&ESG at AMD Hqs, Hyderabad in general and Shri H. Rama Subba Rao, SO-F in particular. He has commendable involvement in activities like preparation of layout plans, specifications drawings, preparation of MDU, etc. Since the work of Shri Rama Subba Rao is not limited to mere supervision but accords lot of expertise like checking samples for technical studies of the construction material and apprise the Project Engineer, C&ESG, AMD Hqs, Hyderabad of various modifications needed in the construction on day-to-day basis, he was considered right choice for day-to-day supervision of construction work. This was done with an intention that Shri Jamuna Prasad can effectively continue to Repair & Maintenance Cell of MR, AMD, Jaipur alone.

- 4.3.2 The apprehension of Shri Jamuna Prasad that his CR will be downgraded has no basis. He may be rest assured that he need not nurture any imaginary fear or tension about lowering his grading in the confidential reports in order to deny promotion in future as long as he conducts himself well and carries out the assigned jobs. His promotion to the grade of SO-E within one year from the date of joining AMD should drive his illogical perceptions.
- 4.3.3 Prior to joining of Shri Jamuna Prasad in AMD, Shri M.K. Khandelwal, SO-F has been looking after maintenance of 20 flats acquired from RHE. Though Shri Jamuna Prasad was asked to report to Shri Khandelwal, SO-F as per the procedure/conventions in vogue in AMD, the fact remains that the former is the senior most among civil/electrical disciplines. As a matter of fact, he was not holding independent charge even at NPC and was reporting to an officer of grade SO-E only.
- 4.4 Shri Jamuna Prasad need not spend his time in office idle in the event of dedicating himself to the assigned job of aspiring jobs of his own interest. An intellectual will always thrive to prove his efficiency in his sphere of work instead of pelding stones on others.
- 4.5 Though AMD has a construction & Engineering Services Group, comprising engineers in the grade of SO-F, the matters involving expertise, such a scrutiny of structural designs etc. need to be done by Directorate of Construction, Services & Estate Management (DCS&EM). Considering the magnitude of work pertaining to construction to an office-cum-laboratory complex at Jaipur, a conscious decision was arrived at by the AMD Council to entrust the job to RHE. The appreciation as regards quality of construction reflected in the local newspaper at Jaipur justifies the decision of AMD Council.
- 4.6 Instead of making a lone officer responsible for quality surveillance, it was felt appropriate to extract the expertise from very senior officers in the grade of Addl. Chief Engineer belonging to NPC, RHE and AMD and with objective, a Project Committee was constituted so that it will obviate the chances of personal prejudices. Being Head of the Region, Regional Director is responsible for all the works being taken up in the Region and he will exercise powers vested with him. Inclusion of Shri Rama Subba Rao on the Project Committee is due to his association with the said job of construction of office-cum-laboratory complex from its primitive stages. Since his dedicated involvement could bring laurels to this Directorate on account of quality surveillance as well as speedy progress, he is being deputed to Jaipur quite often. The expenditure incurred on account of TA/DA of Shri Rama Subba Rao, who is senior to Shri Jamuna Prasad, is worth spending not only in view of his contribution to the construction activity with particular reference to quality surveillance but also certification of measurement books pertaining to various works. In consideration of the fact that an amount of around Rs. 3.00 lakhs is being spent on account of pay & allowances of a civil engineer like Shri Jamuna Prasad or Shri Rama Subba Rao, further expenditure on account of TA/DA for useful purposes is found to be appropriate and economically viable. It is an admitted fact that

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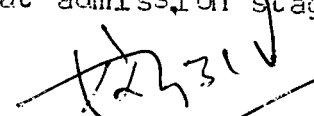
Shri S.H. Nandan was made a member of the Committee presuming that he being a very junior level officer can render assistance to Shri Rama Subba Rao at times of necessity. However, he has not reported for duty at AMD. The contention of Shri Januna Prasad that the Department is wasting money on account of his pay & allowances is not correct as the same is need based. Being dutiful Government servant, it is his duty to discharge the assigned duties instead of inclining towards selective jobs.

4.7 The submission of Shri Januna Prasad that in recent times, a judicial review of administrative action has become expensive and is becoming wider day-by-day is wholly misconceived and not sustainable. No fundamental right conferred upon Shri Januna Prasad under the Constitution of India or other conditions of service applicable to him have been infringed by the Department. A judicial review is permissible for an action taken by the Department infringing some fundamental rights or the breach of any of the service conditions of an employee. In absence of any pleadings duly supported by the material, the present representation is misconceived and deserves to be rejected. Merely because extra money is being invested by the Department for supervising the construction work of an office-cum-Laboratory Complex, it cannot be said that any public exchequer has been mis-utilised.

4.8 Shri Januna Prasad appeared to be not work-oriented as evident from his letters No. AMD/WRJ/ESG/2001/182 dated 4.10.2001 sent directly to the Director, AMD seeking certain facilities like staff, phone with STD facility, a jeep in good condition etc., despite an option to discuss these issues with his superiors. He has been in the habit of submitting representations to various authorities like Director, AMD, Chairman, AEC etc. In a letter dated 5.3.2002 addressed to the Chairman, AEC, he has suggested to divide the civil work at Western Region into two parts in disregard of the fact that such issues could have been settled at local level by means of discussions with Incharge, Dy. R.D. and R.D. He was advised by RD, AMD, WR in a memorandum No. AMD/WR/RD/2001/Tech dated 16.10.2001 to desist from the practice of corresponding with the Senior officers directly. His contention that he has not been assigned any work is untrue as he has adequate responsibilities to discharge being a senior officer in RSM Cell. As a Group-A Gazetted officer, he is expected to take up assigned job willingly instead of making allegation that he is excluded from specific activities. His refusal to accept letter No. AMD/10th Plan/WR/2002, dated 2.5.2002, with regard to preparation of project proposal, substantiates his specific interest in construction activity alone."

5. We entirely agree with the reasoning given by the respondents' Whether work should be executed by the CPWD or by other Agency, it is the policy decision to be decided by the respondents' department. In case the authority has decided that the work should not be executed by the CPWD, in pursuant to their policy, no grievance can be raised by the applicant in this matter. Regarding other contentions, the authority had already given detailed reasoning in Para 4 of order dated 31.12.2002, which we have reproduced above, to which we entirely agree.

6. In view what has been stated above, the present CA is dismissed at admission stage.


(A.F. EHSANVARI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)