

Central Administrative Tribunal
Jabalpur Bench

OA No.275/05

Jabalpur, this the 18th day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Dinesh Kumar Upadhyaya
S/o Late Kedar Nath Upadhyaya
Divisional Forest Officer (IFS) 1989 Batch
R/o Forest Colony, Rajatalab
Raipur, Chhattisgarh.

Applicant

(By advocate Shri S.N.Nande)

Versus

1. The Secretary
Appointment Committee of Cabinet (ACC)
Cabinet Secretariat
Government of India
New Delhi.
2. The Secretary
Ministry of Environment & Forests
Government of India
CGO Complex
Lodhi Road
New Delhi.
3. Director
Department of Personnel & Training
Ministry of Personnel,
Public Grievances & Pension
Government of India
New Delhi.

Respondents

(By advocate Shri S.A.Dharmadhikari)

ORDER

By Dr.G.C.Srivastava, Vice Chairman

This OA has been filed alleging that the order of the Appointment Committee of the Cabinet for allowing the applicant ~~on~~ further

deputation for a period of one year in the State of Chhattisgarh, subject to the concurrence of the State Governments of Manipur, Tripura and Chhattisgarh has not been implemented by the respondents as yet. Accordingly the applicant has sought for the following relief:

- (i) Direct the respondents to pass an appropriate order pursuant to the approval granted by the Ministry of Personnel, Public Grievances and Pension, for a further period of deputation to the applicant to Chhattisgarh cadre in view of the order of the Appointment Committee.

The applicant also prayed for an interim order regarding vacation of his official accommodation, but this prayer was not pressed.

2. The applicant is an officer of the Indian Forest Service of Manipur-Tripura cadre. While serving in the State of Tripura, the applicant became a victim of a terrorist attack on 15th August 1995 and he was seriously injured. The applicant's submission is that his lungs got permanently affected and, therefore, he has been advised by the doctors to stay away from warm and humid climate. In view of these facts, the applicant requested for change of his cadre from Manipur-Tripura to Madhya Pradesh. This request was not acceded to, but he was taken on deputation to Madhya Pradesh initially for a period of three years and subsequently extended by another two years. During this period, the State of Madhya Pradesh was bifurcated. The applicant continued to work at Raipur which became a part of the State of Chhattisgarh. Meanwhile, the applicant embarked on a path of litigation traveling upto the Supreme Court in order to get his cadre changed, but before the Hon'ble Supreme Court finally dismissed his case on 10.5.2002 (Annexure A-9), the Department of Personnel & Training, Government of India, through its letter dated 3rd May 2002 (A-10) made it known that "the Appointment Committee of Cabinet has rejected the request of Shri D.K.Upadhyaya, IFS (MT.89) for his inter-cadre transfer from Manipur-Tripura to Chhattisgarh and as a sympathetic gesture, approved that the officer may be allowed a further inter-cadre deputation of one year to Chhattisgarh, subject to

concurrence of the State Govts. of Manipur-Tripura and Chhattisgarh".

3. The grievance of the applicant is that the above mentioned decision of the Appointment Committee of the Cabinet has not yet been implemented.

4. In their reply, the respondents have stated that in pursuance of the decision of the Appointment Committee of the Cabinet (ACC for short), the Ministry of Environment & Forests through its letter No.22012/91/2001-IFS-II dated 18.11.2002 requested the Government of Tripura and Chhattisgarh to accord their concurrence to the ACC's proposal but the Government of Tripura through its letter No.35(81)GA(P&T)/1991 dated 23rd December 2002 declined permission for extension of inter cadre deputation of Shri Upadhyay for a further period of one year beyond 23.6.2001. The Government of Chhattisgarh was accordingly informed and the applicant was relieved by Chhattisgarh Government on 28.6.2001.

5. In his rejoinder, the applicant has alleged that the ACC's decision has not been implemented in its true spirit. It has been contended that the Ministry of Environment and Forest has sought for the approval of Government of Tripura for "further extension of period of deputation" instead of "further inter-cadre deputation of one year". Accordingly, the applicant alleges that the concurrence of Government of Tripura and Chhattisgarh was not sought in true sense of approval accorded by the Appointment Committee of the Cabinet.

6. We have heard the arguments advanced by the counsel of both the parties. This OA is limited to the applicant's prayer for getting the order of the ACC regarding further deputation of the applicant implemented. It is a fact that the Ministry of Environment and Forest which is the controlling Ministry of Indian Forest Service did approach the State Government concerned for its concurrence for extending the deputation period but the State of Tripura has not agreed to it. The applicant has tried to bring about the subtle difference in the language used by the Ministry of Environment & Forest and what has been written in the letter of the Department of

Personnel & Training (A2), by which the decision of the Appointment Committee of the Cabinet was communicated. We fail to see any material difference between "extension of the deputation period by one year" and "further inter-cadre deputation of one year". At the time this correspondence was made, the applicant was still in Chhattisgarh, although he had completed his 5 year deputation period on 23.6.01, he had not reverted to his parent State till then. Hence, if the deputation was allowed for further one year, it would have been, in effect, extension of the earlier deputation period. The intention of the applicant's parent State is clear, that it does not want the officer to remain out of the State any longer. This being the case, we hold that the decision of the Appointment Committee of the Cabinet has already been acted upon and this OA does not have any merit warranting our intervention. Accordingly, the OA is liable to be dismissed and is dismissed. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

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प्रठांकन सं ओ/व्या.....जबलपुर, दि.....
प्रतिलिपि दाखिल:-
 (1) डॉ. गोपीनाथ राम एसोसिएट, जबलपुर
 (2) डॉ. अमित कुमार राम एसोसिएट, जबलपुर
 (3) डॉ. अमित श्री, डॉ. अमित राम एसोसिएट, जबलपुर
 (4) डॉ. अमित राम एसोसिएट, जबलपुर

S. K. Mandre *DR*
B. Iyer *DR*
I. A. Dhamne *DR*
D. V. Z. *DR*

उपराज्यमार्ग
(कार्यालय)

Approved
22.12.06