

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

Jaipur, the 30th day of June 2005

ORIGINAL APPLICATION NO. 117/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR.G.R. PATWARDHAN, MEMBER (ADMINISTRATIVE)

Virendra Bahadur Singh son of Shri late Rai Sahab Shri R.D. Singh, aged about 58 years, resident of D.G.s residence, opposite Vishwakarma Industrial Area, Jaipur. O/o Director General, State Criminal Record Bureau, Near Police Academy, Nehru Nagar, Jaipur.

.....Applicant

By Advocate: Mr. Amit Mathur Proxy counsel for R.N. Mathur

versus

- 1 Union of India through Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi.
- 2 State of Rajasthan through Secretary to the Govt. Department of Personnel, Government of Rajasthan, Jaipur.

....Respondents.

By Advocate : Mr. Rakesh Jain Proxy counsel for Sanjay Pareek (For Respondent No. 1).

~~Mr. Tanveer Ahmed Proxy counsel for Mr. Bhanwar Bagri, (For Respondent No. 2).~~

Mr. U.D. Sharma, (For Respondent No. 2)

ORDER (ORAL)

As per Court order
dated 11-7-2005

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

(i) the impugned order dated 14.3.2005 (Annexure A/1) may be set aside and quashed.

(ii) Any other order or direction which the Hon'ble Tribunal may deem fit and proper, even the same has not been specifically prayed for, but which is necessary to secure ends of justice may kindly also be passed in favour of the applicant.

2. Briefly stated, the facts of the case are that the applicant who is the Member of the Indian Police service, 1968 batch was granted promotion against the ex-cadre post of Director SCRB and subsequently re-designated as Director General, SCRB w.e.f. 19.5.2003. Initially the Ex-Cadre post was created upto 29.2.2004 and subsequently the tenure of the said post was extended from 01.03.2004 to 28.02.2005 (Annexure A/4) and 1.3.2005 to 28.02.2006 vide impugned order dated 14.3.2005 (Annexure A/1). It is this order which challenged in this OA. The grievance of the applicant is that it was not legally permissible for the respondents to extend the period of the aforesaid post ~~upto~~ upto 28.02.2006.

3. Notice of this application was given to the respondents. The respondents nos. 1 & 2 have filed separate reply. The respondent No. 2 in its reply has stated that the State Government was competent to continue the period of the ex-cadre post of DG SCRB upto 18.05.2005 as the said post was created w.e.f. 18.5.2003. It is further stated that a proposal has been sent to the Central to convey its approval for extension of the period of DG (SCRB)

w.e.f.18..5.2005 to 28.2.2006. The respondents have also taken preliminary objection regarding the maintainability of this OA. The respondents have subsequently filed Additional reply. In the Additional reply, it has been stated that on account of non extension of the term of the said ex cadre post beyond 19.5.2005, the State Government vide order No. P.5(2)/Pers./A-1/2005 dated 17.5.2005 posted the applicant from the Ex. Cadre post of Director General, SCRB Jaipur to the cadre post of Director General, Civil Defence and Commandant General, Home Guards, Rajasthan, Jaipur. Copy of the said order dated 17.5.2005 has been annexed with the additional reply as Annexure R-2/1. It is further stated that applicant has assumed the charge on 19.5.2005. Copy of the charge report has been placed on record as Annexure R-2/2. It is further stated that vide order No. F.4(17)Pers./A-1/99 dated 30.5.2005, the said ex-cadre temporary post of Director General, SCRB had been abolished w.e.f. 19.5.2005. Copy of the said order dated 30.5.2005 has also been placed on record as Annexure R-2/3.

4.Respondent No. 1 in its reply has stated that State of Rajasthan is operating with 2 ex-cadre posts, which is within the permissible limit. It is further stated that from the perusal of Annexure A/3 to OA, it seems that the State Government of Rajasthan has created the post of DG (SCRB) under the powers given in 2nd proviso to Rule 4(2) of IPS (Cadre) Rules, 1954. This action of the State

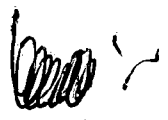
Government is not in order as there is no post at the level of DG, having the duties of like nature, in the list of Sr. Duty Posts. In the list of Sr. Duty Posts, a post of similar nature has been provided in the grade of DIG and the State Government could have only created a temporary post under 4(2) at the grade of DIG. It is further stated that the Government of Rajasthan has sent a proposal to the Central Govt. to convey its approval for extension of period of the post of DG (SCRB) from 18.5.2005 to 28.02.2006. The proposal was examined and for the reasons stated herein before, it was not agreed to. The decision of the Government of India has been communicated to the Government of Rajasthan vide its letter NO. 11012/5/2005-IPS-I dated 16.05.2005 (Annexure -I).

5 In view of subsequent development as noticed above and without going into the merit of the case, we are of the view that the present application has become infructuous. Accordingly, the OA is dismissed as having become infructuous with no order as to costs.



(G.R. PATWARDHAN)

MEMBER (A)



(M.L. CHAUHAN)

MEMBER (J)

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