

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

27

ORDERS OF THE BENCH

15.09.2011

OA No. 283/2008

Mr. P.N. Jatti, counsel for applicant.

Mr. V.S. Gurjar, counsel for respondents.

At the request of learned counsel for the applicant, put up the matter for hearing on 20.09.2011.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

J. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

[Signature]

20/09/2011 [OA 283/2008]

Mr. P.N. Jatti, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

Heard.

The O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

J. S. Rathore
[Justice K.S. Rathore]
Member (J)

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 20th day of September, 2011

Original Application No.283/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Mahendra Prasad Mehta,
s/o late Shri K.L.Mehta,
r/o Bangalow No.3, Ganpati Nagar,
Railway Colony, Jaipur, presently working as
Chief Passenger Transportation Manager,
N.W.Railway, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary, Railway Board, Rail Bhawan, Rai Sina Road, New Delhi.
2. Shri V.N.Mathur, Member, Traffic, Railway Board, Rail Bhawan, Rai Sina Road, New Delhi.
3. Dr. Nalin Singhal, Managing Director, Indian Railway Catering and Tourism Corporation Ltd., 9th floor, Bank of Baroda, Sansad Marg, New Delhi.
4. Shri L.Saikia-CRM-Indian Railway Catering and Tourism Corporation Ltd. East Zone, Guwahati.
5. Shri Vivek Shrivastava, C.G.M. IRCTC LTD., East Zone, Kolkata.

.. Respondents

(By Advocate: Shri V.S.Gurjar)

ORDER (ORAL)

The present OA is directed against the repatriation order dated 27.12.2007 and the impugned orders Ann.A/1, A/2 and A/3 are challenged by the applicant on the ground that the applicant has been repatriated to his parent department prematurely before expiry of the tenure and referred to Ann.A/11 regarding tenure of deputation which provides that period of deputation shall be subject to a maximum of three years in all cases except for those posts where a longer period of tenure is prescribed in the recruitment rules and submits that if the respondents want to repatriate the applicant prematurely then as per Ann.A/12, when employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist his services could be so returned after giving advance intimation of reasonable period to the lending Ministry/Department and the employee concerned. After referring to the aforesaid provisions, the applicant submits that he was sent on deputation for a period of three years and vide impugned order, he has been repatriated to his parent department prematurely. For that purpose, the respondents



have to intimate the applicant, which has not been done in the case of the applicant.

2. It is not disputed by the applicant that after the lapse of time and during the pendency of this OA, maximum term of deputation has expired and the applicant has already been repatriated to his parent department and according to the respondents, this OA has become infructuous. The respondents also contended that this OA is also not maintainable in view of concept of deputation and submitted that in simple words 'deputation' means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on temporary basis and respondents referred to the ratio decided by the Hon'ble Apex Court in the case of Mahesh Kumar K.Parmar and Others vs. SIG of Police and Others reported at (2002) 9 SCC 485 wherein their Lordships held that there is no enforceable right for being on deputation and no mandamus could be issued for requiring the borrowing department to allow a deputationist to continue on deputation. It is further stated that the applicant was on Agreed List at the time of selection for deputation to IRCTC. As per extent instructions vide para 1.5 of the office order dated 20.8.1999, the officers and staff who are on Agreed List should



not be sent on deputation. Therefore, vide Ann.A/1, the Dy. Secretary (D), Railway Board requested the Managing Director, IRCTC to repatriate the applicant to Railway Department and having considered this request, the IRCTC has sent back the applicant to his parent department.

3. Further, admittedly no notification under Section 14(2) of the Administrative Tribunals Act has been issued thereby conferring jurisdiction over this Tribunal and since no notification is issued under Section 14(2) of the Administrative Tribunals Act, the Indian Railway Catering and Tourism Corporation does not fall within the jurisdiction of this Tribunal. This Tribunal in the earlier case of the applicant i.e. OA No.246/2008 vide order dated 24.11.2009 held that Indian Catering and Tourism Corporation does not fall within the jurisdiction of this Tribunal and the OA was disposed of.

4. Thus, not only in view of the ratio decided by the Hon'ble Supreme Court in the case of Mahesh Kumar K.Parmar (supra) but also in view of the judgment dated 24.11.2009 rendered by this Tribunal in earlier OA filed by the applicant, the present OA being bereft of merit deserves to be dismissed. Even otherwise also, after a lapse of more than 3 years, this OA has become infructuous and the applicant has already repatriated to his parent department.



5. Accordingly, in terms of above observation, we find no merit in this OA, which is hereby dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K.S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/