

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 20<sup>th</sup> day of January, 2010

**ORIGINAL APPLICATION NO. 238/2008**

**CORAM:**

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER  
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Brij Mohan Mahvar son of Shri Bhura Lal, aged about 54 years, Divisional Accountant Office of the Executive Engineer (Water Resource), Chauli Project, Canal Division, Jhalawar, resident of 1 Pha 20 Teachers' Colony, Kesavpura, Kota.

.....**APPLICANT**

(By Advocate: Mr. P.V. Calla)

**VERSUS**

1. Union of India through the Controller & Auditor General of India, 10 Bahadur Shah Jaffar Marg, New Delhi.
2. The Accountant General of Rajasthan (A&E), AG Office, Bhagwan Das Road, Rajasthan, Jaipur.
3. The Director, Treasury & Accounts, Rajasthan, Jaipur.

.....**RESPONDENTS**

(By Advocate: Mr. Vikas Jain proxy to Mr. Sanjay Pareek)

**ORDER (ORAL)**

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

"The Hon'ble Tribunal may kindly call for the entire record of the case and examine the same and by an appropriate writ, order or directions the impugned order dated 25.05.2009 Annexure A/1, issued by the Accountant General, Rajasthan, Jaipur, may kindly be quashed and set aside.

Any other relief to which the applicant is found entitled in the facts and circumstances of the present case may also be granted in favour of the applicant.

The original application may kindly be allowed with costs."

2. Briefly stated, facts of the case are <sup>that</sup> 18 applicants have filed OA No. 46/2009 before this Tribunal against the order dated 19.01.2009 whereby it was mentioned that tenure of their deputation shall cease from the date indicated against their names. The grievance of the applicants in that OA was that their case for further extension was recommended by Respondent no. 2 after taking consent of the applicants. It was further alleged that the matter was under active consideration of respondent no. 1 but without waiting any response from respondent no. 1, some of the applicants have been relieved by the authorities under which they were working in the light of the order dated 19.01.2009. Although initially no interim stay was granted in favour of the applicants but when the fact of further extension of their deputation was drawn to the notice of this Tribunal, this Tribunal disposed of the aforesaid OA vide order dated 26.02.2009 with the direction to the respondents to regulate the services of the applicant in terms of the sanction conveyed by the competent authority vide order dated 22.01.2009. It was also held that those persons who have been relieved by the competent authority, they shall be taken back in service in the same capacity in case they submit their willingness/joining report before the concerned authority within a period of one week from the date of passing of the order i.e. 26.02.2009. Pursuant to the said joining, the period of deputation of the applicant of the present OA was extended upto 08.02.2010 vide order dated 04.03.2009 (Annexure A/5). However, the applicant was not relieved at the relevant time as code of election conduct was imposed and as such the applicant could not join pursuant to the direction given by this Tribunal within a prescribed time. The case of the applicant is that the matter was also referred to the Chief Election

Commissioner who gave direction to relieve the applicant for joining on deputation as according to him, Election code is not attracted where the Court order has been passed.

3. The grievance of the applicant is that despite this clarification issued by the Chief Election Commissioner, the respondents have passed the impugned order dated 25.05.2009 (Annexure A/1), <sup>on the basis of</sup> letter dated 20.03.2009 ~~was~~ written by the Executive Engineer, Jhalawar, whereby the respondent no. 2 was informed that the applicant has not joined till date pursuant to order dated 04.03.2009 (Annexure A/5). Based on this intimation given by the Executive Engineer, respondent no. 2 had passed the impugned order dated 25.05.2009 (Annexure A/1) whereby order dated 04.03.2009 (Annexure A/5) was cancelled.

4. Notice of this application was given to the respondents. The respondents have filed their reply. The stand taken by the respondents in the reply is that pursuant to the letter of Executive Engineer, Jhalawar No. Estt./1/09/2416 dated 20.03.2009 whereby he had intimated that applicant has not joined his duty, impugned order dated 25.05.2009 (Annexure A/1) was passed. It is stated that applicant had never informed respondent no. 2 either his incapacity to join duty as D.A. in the office of Executive Engineer, Chauvali Canal Division, Jhalawar due to applicability of code of election conduct in view of Parliament Election 2009 or that he has joined his duty in that office as D.A. on 12.05.2009. It is further stated that had the applicant informed this office timely about any of the information, repatriation order dated 25.05.2009 would not have been issued.

5. We have heard the learned counsel for the parties. It may be stated that when the matter was listed on 04.06.2009, this Tribunal while issuing notice has also granted ex-parte stay thereby staying the operation of the impugned order dated 25.05.2009 (Annexure A/1). Learned counsel for the applicant submits that pursuant to the stay granted by this Tribunal, the applicant has been permitted to join his duty as DA in the office of Executive Engineer, Chauvali Canal Division, Jhalawar.

6. Thus in view of this subsequent development and the fact that the tenure of deputation of the applicant is going to expire on 08.02.2010, we are of the view that the present OA can be disposed with the direction to the respondents to allow the applicant to continue on the deputation post in the aforesaid capacity till 08.02.2010 in view of the order dated 04.03.2009 (Annexure A/5). Accordingly, the present OA is disposed of with the aforesaid directions and the ex-parte stay granted on 04.06.2009 which continued from time to time shall remain operative till 08.02.2010.

7. With these observations, the OA is disposed of with no order as to costs.

  
(B.L. KHATRI)  
MEMBER (A)

  
(M.L. CHAUHAN)  
MEMBER (J)

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