

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 13th day of January, 2010

ORIGINAL APPLICATION NO. 576/2009

CORAM:

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

Anant Bhargava son of Shri Dayanand Bhargava aged 43 years, resident of G-1, Paradise Apartment, D-148 Durga Marg, Jaipur (at present posted as Dy. Chief Material Manager in NWR, Jaipur).

.....APPLICANT

• (By Advocate: Mr. Mahendra Shah)

VERSUS

1. Union of India through Secretary, Ministry of Railway, Rail Bhawan, Raisina Road, New Delhi.
2. Union of India through General Manager, North Western Railway, Headquarter Office, Ganpati Nagar, Jaipur.
3. The Central Vigilance Commission through Chief Vigilance Commissioner Satarkta Bhawan, Block-A, GPO Complex, INA, New Delhi.
4. The Chief Vigilance Officer, Railway Board, Rail Bhawan, Raisina Road, New Delhi.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

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

"In these circumstances, it is, therefore, prayed that this Hon'ble Tribunal will be pleased to accept this application and impugned orders dated 13.7.2009 (Annexure A/1) and 7.8.2007 the repatriation order (Annexure A/2) may kindly be declared illegal and invalid and, therefore, the same kindly be quashed and set aside and the respondents be further directed to give the appointment to the applicant on the post of Dy. CVO for the remaining period of tenure as per the Vigilance Manual with all consequential benefits."

Abh

2. Briefly stated facts of the case are that the applicant was sent for deputation as Deputy Chief Vigilance Officer in CVC w.e.f. 27.04.2006 for tenure of three years. Vide order dated 08.08.2007 (Annexure A/2), the applicant was repatriated to his parent department. The grievance of the applicant in this case is that one Shri Anil Kumar against whom the CVC was investigating two matters was continued to be posted as Deputy CVO whereas the applicant was repatriated without any cogent reasons. Under these circumstances, the applicant has failed this OA thereby praying for the aforesaid reliefs.

3. We have heard learned counsel for the applicant. Learned counsel for the applicant submits that it was not permissible for the respondents to pass order dated 08.08.2007 (Annexure A/2) without affording opportunity to the applicant, as such impugned order dated 08.08.2007 is required to be quashed.

4. We have given due consideration to the submission made by the learned counsel for the applicant. The fact remains that the applicant was sent for deputation for a period of three years commencing from 27.04.2006. The said period has already expired. The applicant was repatriated to his parent department vide order dated 8.8.2007 (Annexure A/2). The validity of this order has not been challenged by the applicant at the relevant time. Learned counsel for the applicant submits that he has filed an appeal against the said order. Be that as it may, in case the validity of the order dated 8.8.2007 would have been challenged, this Tribunal would have issued appropriate order in case the order of repatriation was required to be quashed. Under these circumstances, when there is no substantive right in favour of the applicant and there existing no corresponding duty on authority concerned to continue the applicant on deputation after the expiry of period of deputation, no mandamus can be issued to the respondents to give appointment to the applicant on the post of Deputy CVO, as prayed for by the applicant. The view which we have taken is in

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confirmity with the law laid down by the Apex Court in the case of **State of Uttar Pradesh & Another vs. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti & Others**, 2009 (1) SCC (L&S) 237.

5. In view of what has been stated above, without going into merit of the case, the present OA is disposed of at admission stage with the aforesaid observations. Needless to add that observations made above will not be construed to debar the right of the applicant for consideration of his case for further deputation in accordance with law.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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