

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-667/2018

New Delhi this the 08th day of February, 2018

HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

Sh. Sandeep Jain,
S/o late N.C. Jain,
Aged about 51 years,
Dy. Director (Art), Rashtrapati Bhawan,
R/o Type-V, 23, Schedule A,
President Estate,
New Delhi. ... Applicant

(through Sh. Sanjiv Joshi)

Versus

1. President's Secretariat,
Through its Secretary,
Rashtrapati Bhawan,
New Delhi-110004.
 2. President's Secretariat,
Through its Director,
Rashtrapati Bhawan,
New Delhi-110004.
 3. National Museum,
Through its Director General,
Janpath, New Delhi. ... Respondents
- (through Sh. C. Bheemanna)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli, Chairman

This application is directed against the order dated 02.02.2018, Annexure A-1 whereby the applicant has not been found fit for confirmation on the post of Deputy Director (Art) in President's Secretariat. The applicant was working as Layout Artist in the National Museum. He was appointed to the post of Deputy

Director (Art) in President's Secretariat. It is admitted case of the applicant that he continued on probation till passing of the impugned order. He was never confirmed in service for unsatisfactory performance. Learned counsel for the applicant submits that this amounts to termination. We do not subscribe to this view. Dispensing with the service of the probationer does not amount to termination or reversion. It is the employer to decide whether to confirm an employee on probation or to dispense with his services on account of unsatisfactory performance. The impugned order mentions that the applicant is reverted back to his parent department on the post earlier held by him. Thus, on this ground, it is stated that this amounts to reversion as post of Layout Artist was held by him before being appointed as Deputy Director (Art) in President's Secretariat. As a matter of fact, this part of the impugned order was not required. It shows the benevolence of the authority so that the applicant may join the original post on being denied confirmation during probation. Learned counsel for the applicant has relied upon judgment of the Apex Court passed in the matter of Ramlal Khurana vs State of Punjab reported in (1989) 4 SCC 99.

2. We have perused the said judgment. In the case before the Hon'ble Supreme Court, the order for reversion to the lower post was passed. The appointee was a direct recruit. It was under these circumstances that the Hon'ble Supreme Court held that direct recruit could not be reverted to lower post. In the present case, the situation is altogether different. The judgment is purely distinguishable. Here the applicant has been denied confirmation during probation for unsatisfactory performance. Mere fact that the impugned order also mentions that he may join the post held by him before his appointment as Deputy Director (art), does not mean that it is an order of reversion. As a matter of fact, this part of the order is otherwise meaningless. It is for the applicant or the original department from where he had applied for the post of Deputy

Director (Art) for direct recruitment to accept the lien on the post or not. For the above reasons, we do not find any merit in this application. Dismissed.

(UDAY KUMAR VARMA)
MEMBER (A)

(JUSTICE PERMOD KOHLI)
CHAIRMAN

/ns/