

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.326/2018

This the 24th day of January 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

S.K. Chaudhary
Group ' A '
Presently working as EE (Electrical)
S/o Sh. S.N. Chaudhary
Aged about 52 years
R/o A-4, Sector-56, NOIDA, UP -Applicant

(By Advocate: Sh. Nilansh Gaur)

Versus

1. Union of India
Department of Personnel & Training
Through its Secretary
North Block, New Delhi
2. Employees State Insurance
Corporation (ESIC)
Through Director General
Panchdeep Bhawan, Kotla Road
New Delhi.
3. National Sugar Institute
Ministry of Consumer Affairs, Food
and Public Distribution, Kanpur -Respondents

ORDER(ORAL)

Hon'ble Mr. Justice Permod Kohli

Vide order dated 22.03.2016, the applicant who was earlier serving as Assistant Engineer (Electrical), National Sugar Institute, Kanpur, was deputed to the post of Executive Engineer (Electrical) in

ESIC. Vide subsequent order dated 25.04.2017, the tenure of the applicant was extended by six months up to 20.03.2017. Vide impugned order dated 25.09.2017, the applicant was ordered to be relieved from his duty from ESIC on the same date with direction to report for duty to his parent department. This order came to be challenged by the applicant before this Tribunal in OA No. 3946/2017. This OA was disposed of by this Tribunal with direction to consider the representation of the applicant dated 26.09.2017 which was filed by the applicant consequent upon his repatriation vide order dated 25.09.2017. The direction was to pass reasoned and speaking order within thirty days. In furtherance to the aforesaid directions, the respondents have passed the impugned order dated 29.12.2017 rejecting the representation of the applicant for continuation of deputation in ESIC. Both these orders are subject matter of challenge in the present application.

2. Learned counsel for the applicant has vehemently argued that under the Recruitment Rules, the post of Executive Engineer (Electrical) could also be filled up by deputation including short term contract and with a view to fill up the post by deputation, the respondents corporation vide its communication dated 25.04.2017 (Annexure A/11) asked for no objection from the parent department of the applicant and such no objection was accorded by the parent department vide communication dated 22.06.2017. The applicant

also refers to DoPT OM dated 17.06.2010 wherein procedure and various conditions for deputation have been indicated. In Para 8.1, the period of deputation/foreign service as per the Recruitment Rules of the ex-cadre post is said to be three years in case no tenure regulation exist for the ex-cadre post. It is accordingly contended that in terms of DoPT OM, minimum term of deputation has to be taken as three years and thus the repatriation of the applicant mid way is unwarranted and is impermissible in law, particularly, when no show cause notice was issued to the applicant before the issuance of repatriation order.

3. We have heard learned counsel for the applicant at length and examined the OM dated 17.06.2010 as also the Recruitment Rules. Under the Recruitment Rules, the post of Executive Engineer (Electrical) can also be filled up by deputation as referred to hereinabove. Under the aforesaid order, Note 1 further deals with the deputation of departmental officers wherein the following condition is laid down:

"Note 1- The departmental officers in the feeder grade who are in direct line of promotion will not be eligible for consideration for appointment on deputation (ISTC). Similarly deputationist shall not be eligible for consideration for appointment by promotion.

" Period of deputation (ISTC) including period of deputation (ISTC) in another ex-cadre post held immediately preceding this appointment in the same or some other organization/department of the Central Government shall ordinarily not to exceed four years. The maximum age limit for appointment by deputation (ISTC) shall be not exceeding 56 years, as on the closing date of the receipt of applications."

4. In terms of the aforesaid note, the maximum tenure prescribed for deputation is four years or till the deputationist is 56 years of age. We have also perused the terms and conditions of deputation on which the applicant was deputed to the respondents corporation. Condition number 1 of the terms of deputation prescribes as under:

“1. The period of temporarily deputation will be for a period of six months from the date of joining I ESI Corporation.”

5. Notwithstanding the fact that the maximum tenure under Recruitment Rules is four years and under DoPT OM it is three years. The terms of deputation of the applicant clearly prescribed six months which was extended for another period of six months as noticed hereinabove. Deputation of the applicant was up to 22.03.2017 but he was allowed to continue till the passing of the impugned order on 29.12.2017. There is no provision which inter alia provides for minimum period of tenure on deputation in the present case. Recruitment Rules as also the DoPT OM prescribe the upper limit for deputation. In any case, the deputation of the applicant was for a period of six months which was extended to another six months and he was also allowed to continue for some more period of time. It is not a case where the deputation has been terminated mid way which may attract the observance of the principle of natural justice. Merely asking for no objection from the parent department for purposes of absorption does not confer any right upon the applicant to continue on deputation unless the borrowing

department so desires. The deputationist has no right to remain on deputation as per his/her wish and it is the prerogative of the borrowing department within the precinct of rules to allow a depute on deputation.

6. We do not find there is any violation of the statutory rules or DoPT norms or any of the rights of the applicant. No merits. Application dismissed.

(K.N Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/

