

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

OA No. 2559/2014

This the 28th day of September, 2015

Hon'ble Mr. Justice B.P. Katakey, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

S.P. Sharma, S/o Late Shri O.P. Sharma

219, Aravali Appartments

Alaknand, Kalkaji

New Delhi-19

.....Applicant

(By Advocate : Shri Padma Kumar S.)

Versus

1. Union of India

Through Secretary

Ministry of Transport, Highways & Shipping

425, Transport Bhawan,

1, Parliament Street, New Delhi-1

2. Secretary

DoP&T

North Block, New Delhi-1

3. Dy. General Manager (HR/Admn II)

National Highways Authority of India

G-5&6, Sector 10, Dwarka

New Delhi-75

.....Respondents

(By Advocate : Shri Gyanendra Singh and Shri Rajeev Kumar)

ORDER (ORAL)

By Shri B.P. Katakey, Member (J):

The applicant has filed this present OA praying for a direction to the respondent authority to waive the 'cooling off' period and also to set aside the order dated 15.07.2014 issued by Under Secretary, Govt. of India, Ministry of Shipping, Establishment Section expressing the Ministry's inability to relieve the applicant, who stated to has been selected for the post of Manager, (Admn.) in National Highways Authority of India on deputation basis.

2. Mr. Padma Kumar, S., learned counsel appearing for the applicant referring various documents annexed to the OA has submitted that since the concerned Ministry, namely, Ministry of Shipping, having regard to the special circumstances recommended to the DoP&T to waive the cooling off period, the DOP&T ought not to have refused to do so, which resulted in issuance of the impugned communication by the Ministry of Shipping.

3. Mr. Gyanendra Singh, leaned counsel appearing for respondent in the OA referring to the averments made in the counter reply has submitted that the decision for not waving the

“cooling off” period was taken, having regard to the facts and circumstances of the case and in terms of office Memorandum dated 04.01.2013 issued by the Govt. Of India, Ministry of Personnel, Public Grievances and Pension. It has also been submitted that in fact the said “cooling off” period of three years expires today.

4. It appears from the pleadings of the parties that the applicant has appeared for selection to the post of Manager (Admn.) in NHA I on deputation basis. The applicant was also selected for such appointment. The Govt. of India, Ministry of Personnel, Public Grievances and Pension, DOP&T, having regard to the office memorandum dated 04.01.2013, decided not to waive the cooling off period of three years, as the applicant at the relevant point of time did not complete the period of three years and there being no special circumstances for such waiver.

5. Admittedly the aforesaid cooling off period of three years is going to be over today.

6. That being the position, without going into the question of legality of the order dated 15.07.2014, we dispose of the OA allowing the applicant to approach the concerned Ministry i.e. Ministry of Shipping, requesting consent for deputation and in the event of making such approach, necessary decision will be

taken by the Ministry within 30 days from the date of receipt of such representation together with a copy of this order. It is needless to say that the order that may be passed shall be communicated to the applicant.

7. OA is disposed of. No costs.

Order by **dasti** to both the parties.

(K.N. Shrivastava)
Member (A)

(Justice B.P. Katakey)
Member (J)

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