

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.3098/2016

with

O.A.No.3099/2016

O.A.No.3100/2016

Order Reserved on: 30.09.2016

Order pronounced on 05.10.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri K. N. Shrivastava, Member (A)

O.A.No.3098/2016

Harish Chandra

Son of Inchharam Jaluthria

Aged about 49 years

Resident of A-136, Chandravardai Nagar

Ajmer, Rajasthan.

...

Applicant

(By Advocate: Ms. Sriparna Chatterjee)

Versus

1. Union of India

Through Secretary

Ministry of Road, Transport and Highways

1, Parliament Street, Transport Bhawan

New Delhi.

2. National Highways Authority of India

Through its Chairman

G-5 & 6, Sector – 19, Dwarka

New Delhi – 110 075.

3. Secretary

Public Works Department

Govt. of Rajasthan

Secretariat, Jaipur, Rajasthan.....

Respondents

(By Advocate: Shri Hanu Bhaskar and Sh. C. Bheemanna)

with

O.A.No.3099/2016

Akhil Kumar Saxena

Son of Shri Rajendra Kumar Saxena

Age: 55 years

Resident of C-3, Sukhdham Colony

Police line, Baran Road, Kota, Rajasthan. .. Applicant

(By Advocate: Ms. Sriparna Chatterjee)

Versus

1. Union of India

Through Secretary

Ministry of Road, Transport and Highways

1, Parliament Street, Transport Bhawan

New Delhi.

2. National Highways Authority of India

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G-5 & 6, Sector – 19, Dwarka

New Delhi – 110 075.

3. Secretary

Public Works Department

Govt. of Rajasthan

Secretariat, Jaipur

Rajasthan.

.... Respondents

(By Advocate: Shri Hanu Bhaskar and Sh. C. Bheemanna)

O.A.No.3100/2016

Madhusudan Rao

Son of Late K. Ram Chandra Rao

Aged about 48 years

Resident of: 302, Kaka Tiya Apartment

Back Side of NAC Function Hall

Vijay Laxmi Nagar Colony

Vijaywada, Andhra Pradesh.

... Applicant

(By Advocate: Ms. Sriparna Chatterjee)

Versus

1. Union of India
Through Secretary
Ministry of Road, Transport and Highways
1, Parliament Street, Transport Bhawan
New Delhi.
2. National Highways Authority of India
Through its Chairman
G-5 & 6, Sector – 19, Dwarka
New Delhi – 110 075.
3. Secretary
Public Works Department
Govt. of Rajasthan
Secretariat, Jaipur
Rajasthan. Respondents

(By Advocate: Shri Hanu Bhaskar and Sh. C. Bheemanna)

O R D E R (Common)

By V. Ajay Kumar, Member (J):

Heard both sides on the point of extension of interim relief.

2. The applicants, in all these OAs, belong to the Public Works Department of the Govt. of Rajasthan. On their selection, they were appointed in the National Highways Authority of India (in short, NHAI) on deputation on various dates, initially for a period of

three years. Their deputation was extended from time to time, thereafter.

3. Vide Annexure A4 dated 29.01.2015, the NHAJ while intimating the period upto which the extension of deputation of the applicants was approved, i.e., 08.06.2016 (Applicant in OA No.3098/2016), 07.06.2016 (Applicant in OA No.3099/2016) and 31.05.2016 (Applicant in OA No.3100/2016) requested the parent department of the applicants to send concurrence for extension of deputation, as per the said dates. However, the NHAJ vide the impugned Annexure A1 dated 02.09.2016, passed orders repatriating the applicants to their parent department, i.e., PWD, Rajasthan, with immediate effect.

4. Aggrieved by the said repatriation orders, the applicants filed the OAs.

5. This Tribunal, on 12.09.2016, while issuing notices to the respondents, directed to maintain status quo with regard to the impugned repatriation orders.

6. Ms. Sriparna Chatterjee, the learned counsel appearing for the applicants, mainly submits that the cases of the applicants for permanent absorption in NHA I are pending consideration and before the same is finalized, if the applicants are repatriated, their case for absorption will be seriously prejudiced.

7. The learned counsel further submits that when the NHA I issued Annexure A7-Circular, dated 16.10.2015, not to consider the cases for absorption of the applicants and other similarly placed persons, certain identically placed persons filed OA No.4705/2015 (**Sh. Sanjay Kumar Arora & Others v. Union of India & Others**) questioning the said Circular and also for consideration of their cases for absorption. This Tribunal, after hearing both sides, vide its Order dated 26.04.2016, disposed of the said OA, as under:

"12. In the light of what has been discussed above, we quash and set aside the impugned circular dated 16.10.2015, and direct the respondent - NHA I to consider the cases of the applicants, along with other similarly placed officers, for permanent absorption, and to issue offers of appointment on absorption basis in their favour on the same terms and conditions as stipulated in the offers of appointment on absorption basis issued to S/Shri B.L.Meena, Manoj Saxena and O.P.Bhatia (referred to in the preceding paragraph), in the event of their being found suitable for permanent absorption. The whole exercise shall be completed by the respondent-NHA I within one month from today.

12.1 Accordingly, MA No.477 of 2016 filed by applicant no.1-Sanjay Kumar Arora for staying the operation of the order dated 29.1.2016 (Annexure MA-1) is allowed. The respondent-NHA I is

directed not to repatriate applicant no.1- Shri Sanjay Kumar Arora to his parent department until his case for permanent absorption is considered and appropriate decision taken by respondent-NHAI in accordance with the direction now issued by the Tribunal.

13. Resultantly, the O.A. is allowed to the extent indicated above. No costs. "

8. Accordingly, the learned counsel submits that the applicants in the present OAs are also entitled to be considered for absorption along with the applicants in OA No.4705/2015 and also entitled to be continued on deputation, till their case for permanent absorption is finally decided by the NHAI.

9. Per contra, the learned counsel for the respondent-NHAI, Shri Hanu Bhaskar, would contend that no deputationist has any vested right to continue on deputation permanently or as long as he wishes to continue. After the term of the deputation came to an end, the deputationist cannot continue on deputation, once the repatriation order is passed. Since admittedly the term of the deputation of the applicants came to an end, the NHAI rightly passed the impugned repatriation orders.

10. The learned counsel further submits that this Tribunal by its Order dated 26.04.2016 in OA No.4705/2015 directed the NHA I not to repatriate applicant No.1 therein, i.e., Shri Sanjay Kumar Arora only to his parent department until his case for permanent absorption is finalized. No such protection was given even to other applicants in the said OA. Hence, the applicants in the present OAs cannot take any support from the said decision. The learned counsel also submits that in a Writ Petition filed by them, the Order dated 26.04.2016 in OA No.4705/2015, was stayed and hence, till the said Writ Petition is finally decided, the issue of permanent absorption of the applicants and others cannot also be decided. Accordingly, the learned counsel prays for vacation of the interim status quo order.

11. It is the settled principle of law that the period of deputation of an employee is governed by the terms and conditions contained in the deputation order. Once the deputation period itself is expired, the borrowing department can always repatriate the persons to their

parent department, since the deputationists cannot have any vested interest or lien on the post to which they were sent on deputation.

12. As rightly submitted by the learned counsel for the respondents that this Tribunal in OA No.4705/2015 dated 26.04.2016 directed the respondents not to repatriate Shri Sanjay Kumar Arora only to his parent department till his case for absorption is finalized. No such protection was given to other applicants in the OA. Even otherwise, as stated by the respondents' counsel, the said order of the Tribunal is stayed by the Hon'ble High Court. Further, admittedly, the period of deputation of the applicants, already, came to end.

13. In the circumstances, the interim orders granted in these OAs are vacated.

14. List the OAs before the Principal Registrars Court on 18.10.2016 for completion of pleadings.

(K. N. Shrivastava)
Member (A)

(V. Ajay Kumar)
Member (J)