

OA.No.170/00012/2018/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00012/2018

DATED THIS THE 08TH DAY OF AUGUST, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

Sri D.N. Sreenivasappa

S/o Late M. Narayanappa

Regional Officer, Central Board of Film Certification,

Kendriya Sadan, 4th Floor,

'D' Wing Koramangala,

Bangalore.

.....Applicant

(By Advocate M/s G.R. Law Firm)

Vs.

1. Union of India

Represented by Secretary,
Ministry of I&B,
Shastri Bhavan,
New Delhi – 110001.

2. The Chairman,
Central Board of Film Certification,
9th Floor, Phase-I,
Films Division Complex,
24, Dr.G. Deshmukh Road,
Mumbai – 400 026.

3. Sri Guru Prasad H.L.

PRO, DPR Defence

Bangalore

....Respondents

(By Shri S. Sugumaran, ACGSC)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The matter relates to repatriation of a deputationist. The only question to be considered is what are the conditions under which he was deputed and appointed in a particular department. Needless to say that deputation is a two-way process. It requires consent of the deputationist as well as the parent department as well as the receiving department. Now when all

these three persons are in congruence then a legitimate expectation arises for all three together and in same fashion. That being so, the appointment order is of significance. Shri Sugumaran, learned counsel for the respondents, points out the appointment order and indicates that there is a reversionary clause in it which indicates that this deputation is either for a period of 4 years or until further orders which means that for legitimate reasons a further order can be passed denying the right of a deputationist to a particular geographical location.

2. Shri Sugumaran, learned counsel for the respondents, point out one aspect which he had not mentioned in the reply at all but placed before us as a note. It indicates that the 3rd respondent has a qualification of BE, i.e., Bachelor of Engineering. He had worked in the Ministry of Information and Broadcasting at policy making level for 2 years from 2015-2017 and also worked as a Spokesperson in the Ministry of Defence from 2017-2018. Both these qualifications may be indicative of the trust his political executive might have on this person. Thereafter Shri Sugumaran points to a one month certificate course completed by the 3rd respondent in Film and Television Institute of India at Pune in Movie Making and Movie Appreciation. Surely this one month course is not going to make him an expert in film certification.

3. At this point of time Shri Sugumaran also mentions that there is a DoPT circular which indicates that after having deputed a person the conditions can be relaxed for premature retirement also. These are extreme matters which need not come before us as at this point of time as we have specifically asked the learned counsel as to any complaints being made against the applicant. He graciously affirms that there are no complaints against the applicant. Therefore

it appears to us that for some reason or other it was decided that Respondent No.3 must be posted in place of the applicant. Therefore we will consider what is the right of Respondent No.3. The claim of Shri Sugumaran is that Respondent No.3 must be adjudged to be more qualified than the applicant. Apparently the applicant has more administrative experience as he was already a Deputy Secretary and the qualifications the Respondent No. 3 had allegedly acquired in the interregnum has nothing to do with this matter as the film appreciation course of one month duration may not have any bearing at all as within that short time even God will not be able to impart sufficient knowledge to be a better film certification officer than the applicant. That being the undisputed truth, we are not inclined to accept the view of the respondents that a situation has now arisen for the legitimate expectation of the applicant to be displaced and destroyed.

4. A question of promissory estoppel also arises in this matter. When the parent department and the receiving department enter into an agreement, it creates a promissory estoppel against them. Without sufficient reason they cannot breach it. It becomes a bounden contract. We had specifically queried as to whether there is any reason which will disentitle him for his continuing. Apparently Shri Sugumaran submits that there is no such complaint against him and the pleadings are also silent on this. At this point of time Shri Sugumaran clarifies this point and says that it is for administrative reasons and they want to rotate the officials. This is neither here nor there. Legal objections against a bounden contract must be significant and in praesenti and not in the vague imagination of the officer. Therefore the impugned orders will not lie under law. It is hereby quashed. Applicant will continue at the place till his term is over.

5. The OA is allowed. No order as to costs.

(DINESH SHARMA)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/0012/2018

Annexure A1 Copy of the appointment order dated 04.05.2016

Annexure A2 Copy of the Ministry of I & B order dated 20.12.2017

Annexure A3 Copy of extract of Article 309, 14, 15 and 16 of the Constitution of India

Annexure A4 Copy of the representation letter dated 22.12.2017

Annexures with reply statement

Annexure R1 Copy of the order dated 04.01.2018

Annexure R2 Copy of the order dated 04.01.2018

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