

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.201/01035/2017

Jabalpur, this Thursday, the 03rd day of May, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Mukesh Nahar, S/o Shri Nemichand Nahar, Age – 59 years, Govt. Service, R/o F-4/3, Narmada Colony, Scheme No.78, Vijay Nagar, Indore – 452010 (M.P.), Mob. No.:9826336035 **-Applicant**

(Applicant in person)

V e r s u s

1. Engineer-in-Chief Water Resources Dept. Tulsi Nagar, Bhopal.
2. The Executive Member, Narmada Control Authority, Narmada Sadan Sector-B, Scheme No.74, Vijay Nagar, Indore (M.P.).
3. Member (Environment & Rehabilitation), Narmada Sadan, Sec.-B, Scheme No.74, Vijay Nagar, Indore (M.P.).
4. Dy. Director (Admn), Narmada Sadan, Sect.-B, Scheme No.74, Vijay Nagar, Indore (M.P.) **- Respondents**

(By Advocate – Shri N.K. Salunke for respondents Nos.2 to 4)

(Date of reserving order : 24.04.2018)

O R D E R

By Navin Tandon, AM.

The applicant is aggrieved by the order dated 10.08.2017 (Annexure A-8), whereby he has been repatriated back to his parent department, i.e. Water Resources Department, Bhopal. He is

further aggrieved by the order dated 11.08.2017 (Annexure A-9), whereby he has been relieved to join his parent department. Hence, this Original Application.

2. Facts of the case, as stated by the applicant, are that in pursuance to an advertisement issued by the Narmada Control Authority, the applicant applied for the post of Deputy Director (Civil) on deputation basis, and was selected as such vide the order dated 24/27.03.2015 (Annexure A-1). Since, he was not relieved by the Water Resources Department, the applicant filed a Writ Petition No.4366/2015 before the Hon'ble High Court of Madhya Pradesh, Bench at Indore. The Hon'ble High Court, vide its order dated 27.11.2015, disposed of the same with a direction to the Water Resources Department to take an appropriate decision for relieving the applicant keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Ashok Kumar Ratilal Patel vs. Union of India and Another**, (2012) 7 SCC 757.

2.1 The applicant submitted that after being relieved from Water Resources Department, he submitted his joining in Narmada Control Authority on 18.12.2015. However, the same was not

accepted by NCA, and it was only on the direction of Hon'ble High Court of Madhya Pradesh, Bench at Indore in W.P. No.2937/2016 vide order dated 13.05.2016, the NCA accepted the joining of the applicant subject to LPC and vigilance clearance issued by the Water Resources Department.

2.2 It has been further submitted that all-of-sudden, the NCA issued the order dated 10.08.2017 (Annexure A-8) and repatriated back the applicant to his parent department and relieved him on 11.08.2017 (Annexure A-9). The applicant filed a Writ Petition No.5397/2017 before the Hon'ble High Court of Madhya Pradesh, Bench at Indore challenging the order dated 10.08.2017, which was stayed by the Hon'ble High Court vide interim order dated 04.09.2017. Subsequently, the WP was dismissed on the ground of maintainability. Then the applicant has filed this O.A.

2.3 The applicant contends that he had applied through proper channel and was issued the letter dated 24/27.03.2015 by the NCA, who appointed him on deputation basis for an initial period of three years from the date of his reliving from the Waster Resources Department. Therefore, the respondents NCA should not have

repatriated the applicant before completion of his deputation period of three years, which is impermissible as per the law laid down by the Hon'ble Supreme Court in the case of **Ashok Kumar Ratilal Patel (supra)**.

3. The respondents Nos.2 to 4, in their reply, have submitted that after the applicant's appointment on deputation basis, due to his absence without any sanctioned leave and dereliction of duty as also disobedience of lawful order by superior officer, a disciplinary proceeding was proposed against him vide letter dated 14.06.2017 (Annexure R-2/3). Taking into account the fact that the disciplinary proceeding has to be instituted by his parent department, it was proposed to repatriate back the applicant prematurely vide letter dated 14.06.2017 (Annexure R-2/3). Therefore, after concurrence of his parent department, the impugned orders dated 10.08.2017 (Annexure A-8) and 11.08.2017 (Annexure A-9) were issued.

3.1 It has been further submitted that the applicant has suppressed the fact of institution of proposed disciplinary proceedings against him while filing this Original Application. Further, he has also not disclosed the dismissal of Writ Appeal

No.997/2017 and also order dated 08.12.2017 in Review Petition No.1348/2017 by the Hon'ble High Court of M.P., Bench at Indore and has obtained interim order in his favour on 13.12.2017. Subsequently, after bringing all these facts by the respondents Nos.2 to 4 before this Tribunal, the interim order was vacated vide order dated 20.12.2017.

3.2 The respondents Nos.2 to 4 have also submitted that the applicant had applied for voluntary retirement to his parent department and the same was granted to the applicant w.e.f. 30.11.2017 vide the order dated 29.01.2018 (Annexure R-2/6 filed by respondents No.2 along with MA No.201/00362/2018).

4. Heard the applicant in person and learned counsel for respondents Nos.2 to 4 and perused the pleadings and documents available on record.

5. Before discussing the case on merits, we may note that the applicant has prayed for the following reliefs in this Original Application:

“8.1 It is humbly prayed that the Hon'ble Court may graciously be pleased to quashed the order dated 10/08/2017 (A/8) and

11/08/2017 (A/9) issued by Narmada Control Authority in the interest of justice.

Because the impugned order is against the service law mentioned in the LAWS (SC) 2012 7 34 in the matter of Ashok Kumar Ratilal Patel V/s. Union of India.

8.2 To allow this petition with cost and grant, any other relief which this Hon'ble Court may deem fit be also granted to the petitioner.”

6. The respondents Nos.2 to 4 have mentioned in their reply that the applicant's application for voluntary retirement has been accepted by his parent department and he has been voluntarily retired from service w.e.f. 30.11.2017 vide the order dated 29.01.2018. A copy of order dated 29.01.2018 (Annexure R-2/6 filed along with MA No.201/00362/2018), has also been received by the applicant on the last date of hearing on 16.03.2018. Thus, the relief sought for by the applicant to quash his repatriation order dated 10.08.2017 (Annexure A-7) and subsequent relieving order dated 11.08.2017 (Annexure A-9), cannot be granted at this stage, as the applicant is no more in service.

7. So far as the issuance of direction sought by the applicant in MA No.200/245/2015 for granting salary and other allowances to him during his period of deputation and settlement of retiral dues after his voluntary retirement is concerned, we may observe that no

such relief has been claimed by the applicant in this Original Application and the only relief is to quash and set aside his repatriation order dated 10.08.2017 (Annexure A-8) and subsequent relieving order dated 11.08.2017 (Annexure A-9). Therefore, we are not inclined to pass any such order, which is not the part of the pleading. Hence, the MA is rejected.

7. No other issue other than the repatriation of the applicant and his reliving from the borrowing department is raised by the applicant in this Original Application, and therefore, there is no question to proceed further in the matter and grant any other relief (s), which are not the subject matter of the O.A.

8. In the result, the O.A is dismissed as having become infructuous.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-