

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH

...

OA No.61/2017

Reserved on 20.02.2018

Date of decision:14.03.2018

CORAM:

HON'BLE MS. B.BHAMATHI, MEMBER (A)

HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)

Mahesh Kumar Meena S/o Late Shri P.D. Meena aged around 48 years, R/o 2-A, Anand Vihar Vistar, Triveni Nagar, Jaipur, Rajasthan. Presently working as Assistant Registrar in Debt Recovery Tribunal, Jaipur, Rajasthan.

...Applicant.

By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through Secretary, Ministry of Finance, Department of Financial Services, Jeeva deep building, Sansad Marg, New Delhi.
2. Presiding Officer, Debt Recovery Tribunal, Nehru Place, Tonk Road, Jaipur, Rajasthan through P.O. DRT-1, New Delhi.
3. Registrar, Debt Recovery Tribunal, Nehru Place, Tonk Road, Jaipur, Rajasthan.

...Respondents.

(By Advocate: Mr.N.C.Goyal)

ORDER

Ms. B. Bhamathi, Member (A):

The facts of the case from the submissions of the applicant are that he was on deputation in the Debts Recovery Tribunal (DRT) under the Ministry of Finance (borrowing Ministry) from the lending Ministry i.e. the Ministry of Human Resource Development, where the applicant was Under Secretary in the said Ministry. On being relieved from his duties with effect from 03.02.2012, after the applicant accepted the offer vide communication dated 30.01.2012, the applicant joined the post of Assistant Registrar in the DRT, Jaipur on 06.02.2012, which is a deputation post and has to be filled up by deputation only.

2.1 On completion of three years, the applicant was given extension. He got two more extensions for the fourth and fifth year, by which the applicant became entitled to continue upto 06.02.2017. All extensions have been duly approved by competent authority.

2.2 As per DoP&T OM dated 17.02.2016, extension of deputation beyond a period of five years can be done only if approved by the concerned Minister. Accordingly, the applicant submitted an application on 22.11.2016 addressed to Respondent No.2 seeking

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further extension of his deputation by one year. However, the same was not forwarded to the DoP&T till 25.01.2017 and it was not forwarded to Respondent No.1. The DoP&T gave no objection on 27.01.2017 pursuant to its OM dated 17.02.2016 read with OM dated 17.06.2010. However, the Registrar, i.e. R-3 who was also posted in the DRT on deputation basis, joined in November 2016 relieved the applicant on 04.02.2017 directing him to report to the DoP&T, when R-3 was not the competent authority, because the power to issue such an order vests in the Ministry only.

3. In the reply to the OA filed on behalf of the respondents, it is submitted that the applicant demitted his charge and got relieved from the office on 04.02.2017 (5th February being Sunday) without any demur. His relieving was in accordance with the terms and conditions of the deputation. The applicant has not disclosed to the Tribunal that the Ministry of Finance letter dated 27.11.2015, by which his deputation for 5th year was allowed was done till 05.02.2017 or further orders, whichever is earlier.

3.1. DoP&T Memo dated 17.02.2016, the extension beyond a period of five years can be done only with the approval of the Minister of the borrowing Ministry/Department of Financial Services and that too where it is absolutely necessary and in

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public interest. In the applicant's case, the Ministry has not authorized nor sought the approval of the Minister for extension of term beyond 5 years period.

3.2 As per the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI Act), the Presiding Officer of Debts Recovery Tribunal (DRT) is the Head of the Department and the Registrar shall exercise all the functions, as assigned to him, by the Presiding Officer. In the present case, the Registrar, DRT, Jaipur has relieved the applicant with the prior approval of the Presiding Officer, DRT which is in consonance with the letter dated 27.11.2015.

3.3 Vide letter dated 20.03.2015, Respondent No.1 had issued direction to all the Debts Recovery Tribunals that the guidelines be followed while sending the proposals regarding the extension of deputation period. The letter stated that in case no formal orders for extension of the period of deputation of the officer concerned is received from the Department by the date on which his/her term of deputation is due to expire, it should be presumed that his/her term of deputation has not been/is not being extended and he/she should be repatriated forthwith. No officer shall be retained by the DRTs/DARTs beyond the approved period of deputation.

3.4 Accordingly, the present OA is not maintainable for the reason that the deputation period (5th year) of the applicant has expired without any extension and the applicant cannot be retained in the borrowing department and, therefore, has been rightly relieved to report to the parent department. Since the applicant has completed his deputation period, he has no legal right to continue further and he voluntarily demitted his office without any objection.

3.5 When I.R. was prayed for and granted by this Tribunal on 07.02.2017, respondents filed MA No.93/2017 seeking clarification of the order dated 07.02.2017 passed by this Tribunal wherein the respondents were directed not to further act upon office order dated 04.02.2017. The respondents also sought recall of the order dated 04.02.2017 vide MA No.94/2017. The respondents sought clarification on the ground that once the order dated 04.02.2017 has been issued for relieving the applicant and the said order has also been received by the applicant, there is nothing left to be done by the respondents. Both MAs were disposed by the Tribunal and the order dated 04.02.2017 was recalled vide order dated 31.03.2017 taking note of the fact that applicant has already been relieved.

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4. In the course of oral arguments applicant admitted that he is presently holding the post of Under Secretary in the Department of Personnel and Training, which is the parent Department of the applicant. His only grievance is that he has not been paid the salary from the time of his relieving to the date of joining in DoP&T, i.e. a period of over a month.

5. Heard the learned counsels and perused the documents.

6. There is no doubt that the action of the respondents was completely within the purview of Rules. The legal relieving order of applicant having become effective, no responsibility lay with the R-1 to R-3 to pay the salary and the salary for the period beyond 04.02.2017, since he has ceased to be on the establishment of the office of DRT. Nothing survives in this OA. Non-payment of salary is, therefore, a fresh cause of action for which a fresh remedy before the Tribunal is warranted. However, since applicant is presently working in the DOP&T, which is the nodal Ministry for issuing guidelines regarding deputation, the applicant, if advised, may file a fresh representation before DOP&T which is the lone Ministry which can resolve this issue which is not a party before us. On filing of such a representation, it is upto the addressee Department to take suitable action to redress the residual grievance of applicant by way of regularising

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the period and paying the salary to applicant, as per his entitlement. In the light of the above, OA is liable to be dismissed.

7. Accordingly, the OA is dismissed. No costs.

(Suresh Kumar Monga)
Member (J)

(B.Bhamathi)
Member (A)

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