

**Central Administrative Tribunal
Principal Bench**

**OA No.788/2017
MA No.1246/2017**

New Delhi, this the 24th day of May, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Asim Choudhary, Age 56 years,
C.G.M. (Legal), Group A,
S/o Ravindra Nath Choudhary,
R/o B-1203 Amarpali Sapphire,
Sector-45, Noida,
NCR-201301.

...Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Union of India through,
Its Secretary,
Ministry of Road Transport and Highways,
Transport Bhawan, Sansad Marg,
New Delhi.
2. Y.S. Mallick, Chairman NHAI,
National Highways Authority of India,
G-5 & 6 Sector-10, Dwarka,
Delhi-110075.
3. The General Manager (HR/Admn)-II,
National Highways Authority of India,
(Ministry of Road Transport & Highways),
G-5&6, Sector-10, Dwarka,
New Delhi-110075.

...Respondents

(By Advocate : Shri Ambuj Agrawal for Ms. Anubha
Agrawal and Shri R.H.A. Sikander)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is an officer of ONGC. The respondents issued an advertisement in the year 2016, inviting applications for appointment to the post of Chief General Manager (Legal) on deputation basis. The applicant was selected and appointed as such, through an order dated 14.06.2016 on deputation basis. The period of deputation was mentioned as three years. Various conditions were incorporated therein. However, within six months, he was repatriated through order dated 20.01.2017. The same is challenged in this OA.

2. The applicant contends that he has been discharging his duties as Chief General Manager (Legal) in the NHAI, to the best of his ability and at no point of time, any dissatisfaction was expressed, as regards discharge of his duties. It is stated that the order of repatriation is arbitrary, illegal and unconstitutional.

3. Respondents filed counter affidavit opposing the OA. It is stated that though the applicant was assigned important duties, his functioning was not up to the satisfaction and left with no alternative, they had to

repatriate him. Reference is made to various proceedings that have ensued in this behalf, on earlier occasions.

4. We heard Shri Sachin Chuahan, learned counsel for applicant and Shri Ambuj Agrawal for Ms. Anubha Agrawal and Shri R.H.A. Sikander, learned counsel for respondents.

5. The applicant was appointed as Chief General Manager (Legal) in the NHAI for a period of three years, on deputation basis. Normally, he is expected to be in the NHAI, till the completion of the period. Added to that, there exists a clause for continuation of the deputation also. However, within six months from the date of such appointment, he has been repatriated. Law, no doubt, does not require notice to be issued in the matters of this nature. At the same time, it was a big surprise for the applicant.

6. Another official, by name, Shri Naval Kishore Sharma, was appointed by the NHAI on deputation basis. His term was also for a period of three years. However, he too, was repatriated on 20.01.2017. He filed OA No.278/2017 before the Tribunal. The same was allowed

through order dated 28.02.2017, by referring to various judgments of Hon'ble Supreme Court. It is represented that the said official has been taken back.

7. We find it somewhat difficult to compare the OA No.278/2017, with the present case. The reason is that, the applicant therein, approached the Tribunal, immediately after repatriation and obtained the interim order. The final order enabled him to continue in the post. The applicant herein, reported to his parent department, on repatriation. Simultaneously, he made a representation to the respondents, ventilating grievance about the order of repatriation. It was only on 01.03.2017, that he filed the OA and it was listed for hearing on 07.03.2017. The payer for interim relief was considered on 10.03.2017, and taking note of the fact that the applicant has since been repatriated, the Tribunal declined to grant the same. The applicant is working in his parent department.

8. We would have certainly considered the feasibility of hearing the matter in further detail and granted the same relief to the applicant herein, as granted to the applicant in OA No.278/2017, but for the fact that the

normal period of deputation of the applicant comes to an end on 14.06.2019. Directing the applicant to join the NHAI after getting relieved from the ONGC, just to work for a period of one week, and then to go back to his parent organisation, would not be a meaningful exercise. The possibility of the applicant to join the NHAI, is made difficult on account of the passage of time. At any rate, the applicant cannot be said to have been subjected to any serious prejudice. His apprehension that the premature repatriation may be treated as a negative factor in his service, can be addressed by directing that the order of repatriation shall not, in any way, cause prejudice to the service of the applicant, in his parent department or in the NHAI.

9. The OA is dismissed with the above observation. There shall be no order as to costs.

Pending MAs, if any, stand disposed of.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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