

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A./100/1851/2018
M.A./100/1559/2019
M.A./100/5051/2018

New Delhi, this the 6th day of May, 2019

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

Sh. Ashutosh Srivastava,
Aged about 35 years,
S/o Shri R.K. Srivastava,
R/o Flat No.04/A-10, Shiv Bhawan Apartment,
Sector – 73, Behind A – Square Mall,
Sarfabad, Noida, U.P. - 201301 ... Applicant

(Through Shri M.K. Bhardwaj, Advocate)

Versus

1. National Building Construction Corporation
Through Chairman-cum-Managing Director
NBCC Bhawan, Lodhi Road,
New Delhi
2. The Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi
3. National Highway Authority of India
Through Managing Director
G-5 & G-6, Sector-10, Dwarka,
New Delhi

(Through Shri Aamir Shaikh for Shri Hanu Bhaskar, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is working as Deputy Project Manager (Civil) in the National Building Construction Corporation (NBCC), the first respondent. The National Highway Authority of India (NHAI), the third respondent issued a notification dated January 2018, inviting applications for various posts including Manager (Technical), to be filled on deputation. The applicant intended to avail the opportunity. He filled in the prescribed form and submitted to respondent no.1 with the request to forward the same to respondent no.3. Through communication dated 30.01.2018, the first respondent informed the applicant that in view of clause 1.1 of circular dated 27.12.2016, his request cannot be acceded to. The same is challenged in this OA. It is pleaded that the applicant is within his rights to seek deputation in view of advancement of his career.

2. On behalf of respondents 1 and 3, separate counter affidavits are filed. According to them, the applicant does not have any vested right to insist on his application being forwarded.

3. During the pendency of the OA, the respondents issued another notification for the post of Manager (Technical) to be filled on deputation, stipulating 8.05.2019 as the last date. This time also, the applicant submitted his application to respondent no.1 with the request to forward the same to the General Manager, NHAI, Dwarka, New Delhi.

4. We heard Shri M.K. Bhardwaj, for the applicant and Shri Aamir Shaikh for Shri Hanu Bhaskar, for the respondents.

5. As of now, the applicant is a permanent employee of first respondent organization. It framed its own policy in the context of forwarding applications of its employees for employment elsewhere. They issued circular dated 27.12.2016, which reads as under:

“In supersession of this office Circular No.3312916-Estt./540 dated 14-03-2016, the revised guidelines for issuing NOC/forwarding applications of regular employees for outside employment are fixed as under:-

1.0 GUIDELINES

- 1.1 Applications for outside employment will be forwarded only for appointment on **permanent absorption** basis and **not on deputation basis** for regular employees only.
- 1.2 In respect of Group 'A' & 'B' employees including JEs, two applications in a calendar year shall be forwarded subject to completion of 3 years service in the Company including training period, if any, and clearance of probation on appointed. Further in case of promoted Post, no application will be

forwarded until the employee completes one year after confirmation in the promoted post.

- 1.3 There will not be any restriction for forwarding of applications for outside employment in respect of Group 'C' & 'D' employees.
- 1.4 Further, there will be no restriction for forwarding of applications for outside employment in respect of employees (Group 'A', 'B', 'C' & 'D') belonging to SC/ST & PWD categories.
- 1.5 Application for posts advertised by the UPSC can be sent directly by the employee concerned under intimation to the HRM Divisions. In this regard, there will not be any restriction as far as numbers of applications are concerned provided the same is for a post on permanent absorption basis.
- 1.6 HOD (HRM) will be the authority competent to forward the applications for outside employment. However, release on selection of the employees shall be considered with the approval of Appointing Authority & Chairman-cum-Managing Director.
- 1.7 Prior intimation/permission is required, in case, applying on line application for outside employment and thereafter requires NOC at the time of interview.

2.0 General Conditions

The applications for outside employment will not be forwarded in following circumstances:-

- 2.1 In case, not in response to Public/Press Advertisements.
- 2.2 Employee is under suspension
- 2.3 In case disciplinary proceedings are pending against the employee and a charge sheet has been issued.
- 2.4 Employee is undergoing a penalty.
- 2.5 Employees granted incentive on acquiring higher qualification or given some technical training at Company's cost.
- 2.6 If vigilance clearance is denied.

The above guidelines will take effect from the date of issue of this Circular.

This issues with the approval of Competent Authority.”

6. The clause which is relied upon is 1.1 of the circular. According to this, applications, only for permanent absorption, will be forwarded and not for deputation. Though certain exceptions are also carved out, the emphasis is to discourage its employees from going on deputation.

7. It is argued that on its own accord, the first respondent had forwarded the applications of Ms. Meenakshi Thakur and Shri Adesh Kumar. It is also stated that the application of one Shri Apurva Aggarwal was forwarded after the applicant filed the OA.

8. In case, the first respondent has chosen to forward the applications of others similarly situated as the applicant on its own accord, it shall forward the application of applicant as well. If the application of the applicant is forwarded by the first respondent beyond the last date stipulated in the notification but before the selections are completed, the same shall be received by the third respondent. We make it clear that we have not expressed any view on merits of the issue. The OA is

disposed of accordingly. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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