

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

OA 2515/2018

Reserved on 18.07.2019  
Pronounced on 31.07.2019

**Hon'ble Mr. S.N.Terdal, Member (J)**  
**Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Bharat Singh Negi,  
S/o Late Sh. Dan Singh Negi,  
R/o Tunwala Pushvihar Colony,  
Dehradun, PO Tunwala,  
Uttarakhand.  
Aged about 49 years
2. Ratan Kanwar  
S/o Sh. Raghbir Singh,  
R/o RZ-124A, Shiv Nagar Colony,  
New Roshanpur, Nazafgarh,  
New Delhi.  
Aged about 42 years  
(Group 'C')

(Deputationst Constables in CBI)

... Applicants

(By Advocate: Mr. Ajesh Luthra )

**VERSUS**

1. Central Bureau of Investigation  
Through its Director,  
CGO Complex, Lodhi Road,  
New Delhi-110003. intend
2. Deputy Director (A),  
CBI, 5-B, CGO Complex,  
Lodhi Road, New Delhi-110003.

.... Respondents

(By Advocate: Mr. Hanu Bhaskar )

**ORDER**

**Hon'ble Mr. S.N.Terdal, Member (J):**

We have heard Mr. Ajesh Luthra, counsel for applicants and Mr. Hanu Bhaskar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

- "a) Call for the records of the case
- b) Hold and declare that the applicants have been wrongly excluded for further consideration for absorption in the respondent organization and
- c) Direct the respondent to consider the applicants afresh keeping in view the nature and duties of the post of Constable in the Executive Cadre and absorb the applicants accordingly
- d) Accord all consequential benefits
- e) Award costs of the proceedings; and
- e) Pass any order / relief / direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicants."

3. The relevant facts of the case are that both the applicants were belonging to their parent organization of Border Security Force (BSF). The applicant no. 1 came on deputation to respondent CBI organization on 12.07.2011. The applicant no. 2 came on deputation to the above said respondent organization on 8.08.2011. That initially the deputation was for three years but, however, the same was extended from time to time by specific orders. The deputation period of applicant no. 1 was extended upto 11.07.2018 and that of applicant no 2 was extended upto 7.08.2018. As per the Recruitment Rules (RRs) notified on 04.07.2013, namely, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Central Bureau of Investigation (Group 'B' and Group 'C' Executive posts) Recruitment Rules (RRs), 2013, there is 100% deputation/absorption for the post of Constable (General duty), but, however, the said absorption shall not exceed 50% of the total strength of Constables. In the absorption processes started vide circular dated 11.07.2017, the applicants had applied and in the interview the applicants performed very well but, however, they were not selected for

permanent absorption. The case of the applicants is that in the said absorption process of 2017 several Constables who were not working in "general duty" were selected for absorption, whereas the applicants having worked in "general duty" were not selected and they were excluded, as such the respondents have acted arbitrarily and unreasonably. The applicants have given the names of several persons who according to the applicants are not eligible as they were working as "Security Aids" or as "Drivers" or working on "bell duty" or "Malkhana Moharrar" or "Naib Court". On these ground, the counsel for the applicants has prayed for the above stated reliefs.

4. The counsel for respondents equally vehemently contended that as per the RRs there is no restriction of considering only deputationist on "general duty" to be considered for absorption and that the Selection Committee consisted of 5 members comprising of one DIG, 3SPs and 1 DSP and the said Committee selected the candidates as per the RRs. The counsel for the respondents further submitted that the selection process for absorption had taken place in 2009 and thereafter in 2017 and it is not known when the next absorption process would taken place and he further submitted that as per Note-2 of column 11 of the relevant portion of the RRs, the total maximum period of deputation is not more than 7 years and the applicants have completed the said period of 7 years on 11.07.2018 and 07.08.2018 respectively and in view of the deputation policy of MHA dated 22.11.2016 as the applicants have already completed their maximum tenure in the respondent CBI organization they are immediately require to be repatriated to their parent department and the applicants have not challenged the legality and validity of the said Note-2.

The counsel for the respondents further submitted that from the bare reading of the reliefs prayed for by the applicants they have not challenged the select list nor they have arrayed the necessary private respondents against which the applicants have made allegation. The said rule Note 2 under relevant column 11 is extracted below:

"Note 2: The period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in same or some other organization shall ordinarily not exceed seven years subject to screening midway for assessing fitness and suitability for continuation on deputation and if a person is found unsuitable for continuation on deputation, for whatsoever reasons, he shall be reverted to parent cadre immediately without any notice."

The averments in the counter reply regarding the deputation policy of MHA dated 22.11.2016 is extracted below:

"4.16 & 4.17 That as regards to the contents of Para Nos. 4.16 & 4.17 of the present Original Application, it is submitted that Directorate General of CPOs (ITBP, BSF, CISF) have asked this Bureau to immediately repatriate Shri Bharat Singh Negi, Constable among others. The letter states that the personnel (including Shri Bharat Singh Negi) have completed deputation tenure and therefore they may be repatriated to their respective Directorate General of BSF at the earliest otherwise, Departmental action will be initiated against them, as per the deputation policy of MHA dated 22.11.2016. Therefore, this Bureau may be allowed to repatriate to them to their parent Organization i.e. BSF so that their parent Organization may not initiate any penal action against him."

In support of his contention, the counsel for respondents further submitted that similar OAs has been dismissed, namely, OA no 4133/207 (**Komal Singh & Ors Vs. CBI through Director CBI & Others**) and OA no.785/2018 (**Shivpal Singh Vs. CBI through Director CBI & Others**).

5. The counsel for the applicants relied upon the law laid down by Hon'ble Supreme Court in the case of **Rameshwar Prasad Vs. Managing Director, U.P. Rajkiya Nirman Nigam Limited and Others** (1999) 8 SCC 381) to support his contention that the absorption being made under the RRs, the respondents are not permitted to deviate from the rules. However, in the present case as submitted by the respondents the RRs do not restrict the respondents from considering other deputationists who are not working in "general duty" and the applicants have not challenged the above stated note 2 of the said RRs and in view of the above stated MHA policy, they are not entitled to be on deputation beyond 2018 and there is no likelihood of holding absorption process in near future, and the law laid down by the Hon'ble Supreme Court in the above case is not applicable to the present case. The counsel for the applicants submitted that the order of dismissal of the earlier OAs passed by this Tribunal in the above stated OAs has been challenged before the Hon'ble High Court in Writ Petition (Civil) No. 11676/2018 (**Komal Singh and Anr. Vs. CBI & Others**) and 5893/2019 (**Shivpal Singh Vs. CBI & Others**) and the Hon'ble High Court has issued notices and as such the reliefs prayed for by the applicant require to be granted. But, however, as the orders passed by this Tribunal are under consideration before the Hon'ble High Court and they have not been set aside and as observed above the applicants have not challenged the above stated note-2 of the RRs and they have not challenged the select list as such there is no impediment in disposing of this OA and in view of the above discussion, the relief prayed for cannot be granted.

6. Accordingly, the OA is dismissed. The interim order granted vide order dated 11.07.2018 shall stand vacated. No order as to costs.

**(Pradeep Kumar )**  
**Member (A)**

**(S.N.Terdal)**  
**Member (J)**

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