

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01718/2018

DATED THIS THE 11TH DAY OF JUNE 2019

HON'BLE SHRI DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

M.Pramoth
S/o Maney,
Aged 36 years
Asst. Manager/S&T/RVNL
R/o C/o Ganesh Anandan
House No.131, Mallikarjunnagar,
Near Chetana Colony,
Gadag Road,
Hubli 580020.Applicant

(By Shri K.Shivakumar..... Advocate)

Vs.

1. Union of India
Rep. by General Manager
South Western Railway,
Hubli

2. Additional General Manager(HR)
Rail Vikas Nigam Limited, 1st Floor,
August Kranti Bhawan,
Bikaji Cama Place
RK.Puram,New Delhi.

3.Principal Chief Personnel Officer,
South Western Railway,
Hubli ...Respondents.

(By Shri J.Bhaskar Reddy , Railway Standing Counsel)

ORDER (ORAL)

DR. K.B. SURESH, MEMBER (J):

1. Heard. Even though several opportunities had been given to the Railways, they have not filed reply. The matter is in a very short compass.
2. Apparently, applicant had been on deputation and after the period of deputation was over on 22.9.2018, he ought to have been repatriated. But the RVNL, apparently, because of shortage of staff with them did not relieve him. But on pressure relieved him on 28.12.2018.
3. Applicant points out Annexure A-11, OM issued by the DOPT indicating that if, in case of an employee over stays on deputation then, he is liable for disciplinary action and other adverse Civil/Service consequences. We quote the order:-

*"No.AB.14017/30/2006-Estt.(RR)
Government of India ,
Ministry of Personnel, Public Grievances and Pensions ,
Department of Personnel and Training'*

Dated the 29th November, 2006

OFFICE MEMORANDUM 29NOV 2006

Subject: Implications of overstay while on deputation.

It has been brought to notice of the Government that that even though the terms and conditions of deputation issued by the various, Ministries/ Departments/Offices specify the period of deputation, there have been a number of cases' of overstay without the approval of the competent authority. A number of proposals for regularization of such overstay are also being received for approval by the Competent Authority. It is necessary to ensure that there is

no laxity on the part of the controlling authorities in relieving the deputationist and the deputationist should not go by the presumption that he needs to join his parent cadre only after being formally relieved, by the borrowing department. It has, therefore, been decided that in future all cases of deputation shall be regulated by the following conditions viz.:-

(i) The terms and conditions of deputation shall clearly lay down not only period of deputation as per the Recruitment Rules for the post or as approved by the competent authority but also the date of relieving of the deputationist. No further orders for relieving the officer will be necessary;

(ii) The deputationist officer including those who are presently on deputation would be deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. It will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In cases where offices are on deputation on the date of issue of these orders and the normal tenures are getting over in a period of six months, the concerned officers/Organisations may be allowed an extension of not more than one month, on a case to case basis with the approval of the DOPT.

(iii) That in the event of the officer overstaying for any reason, whatsoever, he is liable to disciplinary action and other adverse Civil/Service consequences which would include that the period of unauthorized overstay shall not count against service for the purpose of pension and that any increment due during- the period of unauthorized overstay shall be deferred, with cumulative effect, till the date on which the officer rejoins his parent cadre.

2. *Written consent of the officer concerned shall be taken to the terms and conditions of deputation (inclusive of the conditions in para 1 ibid). before the deputation orders are issued. The contents of these instructions will be conveyed to all officers presently on deputation for information/compliance.*

3. These instructions will apply to all deputationists including State Government Officers/All India Services officers joining Central Government posts on deputation and to officers proceeding on deputation to State Government/autonomous & statutory institutions/foreign Bodies, etc.

3. If the borrowing Organisations would like a relaxation from these terms, they should obtain approval of DoPT to it, prior to the start of deputation.

4. Hindi version follows.

Sd

(Smita Kumar)
Director “

4. But then, it appears to us that there is no juncture of the applicant in the overstay. If the deputed department did not relieve him, naturally he cannot go. Therefore, if at all any civil consequences are there, the concerned authority may take whatever action against RVNL and others. It will not be applicable to the applicant. This is hereby declared. OA is, therefore, allowed to the limited extent and matter closed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the Applicants in OA No.1718/2018

Annexure-A1: Copy of O.O dated 7.2.13

Annexure-A2: Copy of RVNL letter dated 9.10.13

Annexure-A3: Copy of letter dated 20.7.16

Annexure-A4: Copy of RVNL dated 14.6.18

Annexure-A5: Copy of representation dated 10.8.18

Annexure-A6: Copy of representation dated 23.8.18

Annexure-A7: Copy of representation dated 10.9.18

Annexure-A8: Copy of representation dated 17.9.18

Annexure-A9: Copy of representation dated 28.9.18

Annexure A10 : Copy of letter dated 10.9.18

Annexure A11: Copy of OM dated 29.11.06

Annexure A12: Copy of OM dated 1.3.11

Annexure A13 : Copy of Railway Board circular dated 24.7.07

Annexure A14 : Copy of Railway Board circular dated 13.5.11

Annexure A15 : Copy of representation dated 17.7.15

Annexure-A16: Copy of representation dated 25.9.18