

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.201/01071/2018

Jabalpur, this Tuesday, the 3rd day of December, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

B.R. Meena
 S/o Shri Chhote Lal Meena
 Age:47 years
 Occupation Service
 Zonal Director
 Narcotics Control Bureau
 Indore Zone
 R/o Quarter No.2 Type-V
 CPWD Officers Colony
 Bungalow No.10 Near Geeta Bhawan
 Square Indore 452018 (MP) -Applicant

(By Advocate –**Shri L.C. Patne**)

V e r s u s

1. The Union of India
 Through Secretary to the Govt. of India
 Ministry of Home Affairs
 North Block New Delhi 110001

2. The Director General
 Narcotics Control Bureau
 Head Quarters
 West Block No.1 Wing No.5
 R.K. Puram New Delhi 110066 - Respondents

(By Advocate –**Shri S.P. Singh**)

(Date of reserving the order: 12.03.2019)

O R D E R

By Ramesh Singh Thakur, JM:-

This Original Application has been filed against the order dated 08.11.2018 passed by respondent No.2 whereby repatriation of the applicant's services to his parent department i.e. to CRPF by curtailing the period of deputation has been issued.

2. The applicant has prayed for the following reliefs:-

“8.1 That the impugned order dated 8.11.2018 (Annexure A/8) be quashed and set aside.

8.2 Any other order/orders, which this Hon'ble Tribunal deems, fit proper under the facts and circumstances of the case.”

3. Precisely the case of the applicant is that the respondent No.1 invited applications on deputation to the post of Deputy Director/Zonal Director in Narcotics Control Bureau. The applicant being eligible in all respect had applied for the said post. The candidature of the applicant and his suitability for the deputation to NCB was thoroughly scrutinized and examined at the level of the

respondent No.1 consisting of past service of the applicant, his ACRs over the years, his work performance, his efficiency and integrity etc. and having satisfied about the character, antecedents and credentials of the applicant that the respondent No.1 had forwarded the name of the applicant to UPSC for ascertaining further the merit of the applicant based upon the interview/personal talk to be held before the interview board of UPSC. Accordingly, the Commandant 38th Battalion CRPF Smailpur Samba (J&K) relieved the applicant by an order dated 17.09.2013 (Annexure A/1) to attend the personal talk on 24.09.2013 in the UPSC office at New Delhi.

4. The applicant attended the interview talk along with other candidates on 24.09.2018 at New Delhi. On the basis of his performance in the interview/personal talk and on the basis of his positive merit, the applicant want found suitable for deputation to NCB on the post of Deputy Director/Zonal Director, NCB and his name was recommended by the UPSC in its letter dated 25.09.2013

addressed to the Respondent No.1 for his appointment on deputation to the post of Deputy Director/Zonal Director, NCB. Accordingly on the recommendation of the UPSC the respondent No.1 has issued an order dated 05.11.2013 (Annexure A/2) appointing the applicant on deputation on the post of Deputy Director in NCB, New Delhi for the period of four years effective from the date on which the applicant takes over the charge of the post of Deputy Director. The applicant was relieved on 18.11.2013 (Annexure A/3) issued by the Commandant 38th Battalion, CRPF Smailpur, Samba (J&K) to join on the post of Deputy Director, NCB Headquarters New Delhi in the forenoon of 19.11.2013 which is clear from order dated 21.11.2013 (Annexure A/4). Since 19.12.2013, the applicant has been discharging his duties as Zonal Director, NCB Indore Zone. There have been no complaints of whatsoever kind regarding his work performance or behavior and on the contrary he has been graded as “very Good” in his ACRs recorded during the

period his deputation. Copy of ACRs are submitted as Annexure A/6. The maximum period of deputation as per prevalent policy was four years and therefore the appointment order of the applicant reflected the period of deputation in NCB to be four years. The said policy was amended in the year 2016 i.e. before completion of four years' tenure by the applicant and vide OM dated 28.12.2016 (Annexure A/7) issued by the Respondent No.1 it has been very categorically provided that all those officials who are on deputation to NCB as on 22.11.2016, their period of deputation would automatically stand revised to 7 years in NCB/NIA and their cases were not required to be referred to respondent No.1 for extension. On completion of four years by the applicant on 18.11.2017, his services were not repatriated but as per policy dated 28.12.2016, the same stood automatically revised to 7 years which shall continue till 18.11.2020 and the applicant was allowed to work on the post of Zonal Director, NCB, Indore Zone on deputation. The

respondent No.2 has issued the impugned order dated 8.11.2018 (Annexure A/8). Being aggrieved by the injustice done to the applicant, the applicant has submitted representation dated 10.11.2018 (Annexure A/9) address to the respondent No.2 making a prayer for extension of his period of deputation but nothing has been heard in the matter so far.

5. The respondents Nos.1 and 2 have filed their reply to the Original Application. Respondents Nos.1 and 2 has raised the preliminary objection and it has been submitted that as per Recruitment Rules for the post of Deputy Director/Zonal Director in NCB, the period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization or department of the Central Government shall ordinarily not to exceed four years. While considering the case for extension of deputation tenure, work performance of the officer from time to time, recommendations of concerned Deputy Director General

of the Region, integrity of the office, DE/Vigilance angle etc. are kept in view. The applicant was appointed as Deputy Director/Zonal Director in NCB vide Ministry of Home Affairs order dated 05.11.2013 (Annexure R/2) for a period of four years. The officer joined NCB on 19.11.2013. The deputation tenure of the applicant was extended for one year i.e. upto 18.11.2018 along with four other officers vide NCB Head Quarters office order dated 31.01.2017 (Annexure R-3). Thereafter the applicant submitted his willingness for extension of deputation tenure vide application dated 28.06.2018 (Annexure R-4/1) through the Deputy Director General (South West Region), NCB. The DDG (SWR) vide letter date 31.07.2018 (Annexure R-4/2) did not recommend the case of the applicant due to his poor performance and since his integrity has come under shadow as revealed in an enquiry conducted based on allegations made through a complaint. It has been further submitted by the replying respondents that getting a very good APAR previously does not mean

that the authorities will ignore any further facts coming to the notice of the authority throwing light on the performance of said officer in terms of supervision of his zone and poor integrity. As and when it comes to the notice that the officer's integrity is in doubt and he is not performing well, then it is a duty of the authority to disassociate/disengage that officer from the duty, in public interest, and organizational interest, so that the further damage is not done. Hence in organizational interest, deputation was not extended after due consideration and in the interest of administration.

6. It is submitted by the replying respondents that the applicant belong to Central Reserve Policy Force (CRPF) which does not come under jurisdiction of the CAT. The order for repatriation of the applicant to his parent organization (CRPF) was issued vide Headquarters office order dated 08.11.2018. It has been submitted by the replying respondents that one Smt. Sandhya Jaiswal w/o Sanjay Jaiswal against the applicant received through the

NHRC, MHA, CBI as well. The preliminary enquiry was conducted. During the preliminary enquiry, misconduct reflecting on his integrity and supervisory lapses on the part of the applicant have been come into light, which is as under:-

“(a) That the accused persons brought to Indore Zone for interrogation, were taken to the room of ZD, Sh. B.R. Meena , IO being kept out of the case and thereby creating suspicion about his intentions and integrity. This practice is observed to be an usual practice of the ZD, Shri B.R. Meena as revealed during the enquiry.

(b) Access of the system of Y-room interception was illegally extended to the room of Zonal Director, despite it being against the SOP of MHA for lawful interception.

(c) Case files were unduly delayed by the Zonal Director on the pretext of vetting. The Superintendent being an immediate supervisory

officer was kept out of the case and involved only at the fag end i.e. when 180 days was getting over. This speaks about his inability to carry his team along and perfunctory supervision.

(d) The Indore Zone has submitted to NCB Headquarters, the destruction certificate stating that Y Room transcripts have been purged from their systems beyond retrieval except those which were required for case/investigation purposes. However, the procedures related to destruction of Y-transcripts were not followed as transcripts of 2013 onwards were present on the server hard disk during the enquiry which does not speak well about the officer's truthfulness and integrity.

(e) Shri B.R. Meena's supervision and control over his subordinates is found to be slack. Keeping away Mr. Amit Khare, Intelligence Officer, by not assigning cases for three years reflects his lack of

ability as a supervisory officer to carry his team along.”

7. Besides the applicant has not reported the involvement of Special Public Prosecutor (SPP) in the States of Madhya Pradesh and Chhattisgarh Shri Rajendra Porwal in CBI cases, which he should have, in organizational interest, as continuing the legal services of a SPP to defend our cases when he himself is under cloud is not proper and does not speak well about the officer's performance and integrity. It has been further submitted by the replying respondents in response to office memorandum of Ministry of Health dated 28.12.2016 (Annexure R/6). The applicant came in rank of ZD/DD whose initial period of deputation is 4 years. Hence the office memorandum dated 28.12.2016 does not apply to the applicant. Before issue of policy guidelines dated 22.11.2016 (Annexure R/8) all government organization which were taking combatized CAPF officers on deputation were sending request for extension of their

deputation to MHA and MHA had to agree in each case. Accordingly, the guidelines were issued on 22.11.2016 so that this requirement is done away with. As per Para 20 of the said policy guidelines it is clearly mentioned that “Notwithstanding the above, provision of the tenure Rules, Recruitment Rules and instructions issued by DoP&T from time to time, will be applicable and shall prevail to the extent of any repugnancy in the above guidelines.” Thus, the provision of Recruitment Rules will prevail. NCB Recruitment Rules of Zonal Director are of great relevance which prescribes a normal tenure of 4 years of Zonal Director. The Recruitment Rules of Zonal Director / DD of NCB were not been revised to make normal period of deputation to seven years. Regarding clarification dated 28.12.2016 (Annexure R/6) the key word “automatically eligible for extension” of deputation. The last line of OM about automatically stand revised is to be read along with earlier line stating “automatically eligible for extension of deputation.” It has been further submitted by the replying

respondents that even for fresh officers coming to NCB on deputation in the rank of Deputy Director/Zonal Director, much after issue of this O.M. 28th December 2016 (Annexure R/6), MHA has published vacancy circular dated 08.01.2018 (Annexure R/9) for filling up of the post of Deputy Director/Zonal Director in NCB on deputation basis, the period of deputation shall be for four years only not for 7 years. Hence, it is erroneous interpretation of OM dated 28th December 2016 to say that there is no need for extension to 7 years. The officer become “automatically eligible for extension” to deputation but borrowing authority retains the discretion whether to actually extend the deputation. It has been further submitted by the replying respondents that officers who come on deputation for a fixed tenure, premature repatriation is always permissible in cases of misconduct and poor performance. The case of the applicant is one of poor performance and lack of integrity as is made out from the annexure R-5(I) to R-5(XIX). As poor integrity and

supervisory lapses have come to the fore against the applicant and further due to non-recommendation of his immediate supervisory officer i.e. the DDG (SWR), his case was not found to be fit for extension and order for repatriation have been issued vide NCB Head Quarters office order dated 08.11.2018.

8. The applicant has filed rejoinder to the reply filed by the respondents. The applicant has reiterated the earlier stand taken in the O.A. It has been submitted by the applicant that recruitment rules were framed in the year 2010 and Rule 5 of the policy provides for power of relaxation in favour of Central Government with respect to any class or any category of persons. A bare perusal of Policy Guidelines for deputation of combatised CAPFs and AR personnel in other organizations dated 24.11.2016 (Annexure R/8) , the maximum period of deputation has been prescribed in Para 3(B)(ii) is seven years specifically in the two organizations namely NCB and NIA will be 7 years. Thus, the period of deputation of the applicant in

terms of this policy read with policy dated 28.12.2016 (Annexure A/7) shall be seven years. It has been further submitted by the applicant that as far as Clause 20 of the said policy concerned, the provisions of Recruitment Rules shall prevail to the extent of repugnancy in these guidelines. In the instant case, there is no repugnancy between the policy and the Recruitment Rules is only supplementing the provisions of the Recruitment Rules as keeping in view the specialized nature of appointment under NCB and NIA, the Central Government has relaxed the provisions of the Recruitment Rules by framing these policies only with respect to certain class or category of persons, mentioned in these policies. So the stand of inconsistency and repugnancy taken by the respondents is fallacious and falls to the ground specially when the respondents themselves have extended the period of deputation of the applicant keeping in view the same policy dated 24.11.2016 and 28.12.2016 by an order dated 31.01.2017 (Annexure R/3). It has been specifically

submitted by the applicant that all the officers whose names have been mentioned in order dated 31.01.2017 have been allowed to continue on deputation beyond the period of five years such as Shri Manoj Kumar (ZD), Shri Madho Singh (ZD), Shri Rohit Katiyar (DD) and Shri Praveen Kumar (AD). It has been further submitted by the applicant that vide letter dated 31.07.2018 (Annexure R4/2), the same was written by the DDG (SWR), NCB Mumbai at the behest of Respondent No.2 as initially he forwarded the application of the applicant (Annexure R-4/2) without any objection to the respondent No.2 for extension of deputation period of the applicant. But upon the pressure exerted by Respondent No.2 that the said DDG has issued the letter (Annexure R-4/2) citing some enquiry pending with him at the instance of some complainant. So the said compliant was nothing but a mere eyewash, a false and frivolous complaint as the applicant did not show any mercy against the husband of the complainant Shri Sanjay Jaiswal against whom the

applicant got registered two criminal cases in the year 2015 and in the year 2016 for carrying five quintal and seven quintal cannabis under NDPS Act. It has been further submitted by the applicant that even if the contentions as advanced by the respondents in their reply are accepted, then the impugned repatriation order becomes stigmatic has the effect of termination of the applicant's appointment on the post of Zonal Director, NCB and therefore the same cannot be ordered on the mere pendency of some enquiry in view of the law laid down by Hon'ble Supreme Court in the case of Union of India and Another v. Shardindu (2007) 6 SCC 276. Moreover, the power of repatriation has been exercised by respondent No.2 without jurisdiction, without consultation with respondent No.1 or with the consultation of lending authority, the same attracts the doctrine of malice in law' in view of the law laid down by Hon'ble Apex Court in the case of P. Mohan Pillai vs. State of Kerala & others [2007

(2) SCC (L&S) 542], Govt. Branch Press vs. D.B. Belliappa [AIR 1979 SC 429] etc.

9. Respondents Nos.1 and 2 have submitted additional reply to the rejoinder filed by the applicant. It has been submitted by the respondent-department that it is clear position regarding initial deputation for the applicant was for four years and it was extended further for a year. A number of complaints were lodged against him. Several memos were also issued including the enquiry and therefore the applicant's case cannot be compared with the other officers. The respondents have denied all the allegations and submissions made by the applicant in their additional reply.

10. We have heard the learned counsel for the parties and perused the pleadings and documents annexed with the Original Application.

11. From the pleadings it is the admitted case of the parties that the applicant was appointed on deputation to the post of Deputy Director/Zonal Director, NCB. The

candidature of the applicant was scrutinized and examined at the level of the respondent No.1 and the name of applicant was forwarded to UPSC. UPSC has recommended the name of applicant and the applicant was relieved vide order dated 17.09.2013 (Annexure A/1) selected by UPSC in letter dated 25.09.2013 and was recommended to the post of Deputy Director/Zonal Director NCB. Accordingly, respondent No.1 has issued an order dated 05.11.2013 (Annexure A/2) appointing the applicant on deputation on the post of Deputy Director in NCB, New Delhi for the period of four years effective from the date on which the applicant takes over the charge of the post of Deputy Director. The applicant was relieved on 18.11.2013 (Annexure A/3) issued by the Commandant 38th Battalion, CRPF Smailpur, Samba (J&K) to join on the post of Deputy Director, NCB Headquarters New Delhi, which is clear from order dated 21.11.2013 (Annexure A/4). It is also admitted fact that on completion of four years the applicant had applied for

extension of deputation period and the same was allowed the deputation period was extended for one year i.e. upto 18.11.2018 along with four other officers vide NCB Headquarters office order dated 31.01.2017 (Annexure R-3). It is also admitted fact that the applicant submitted his willingness for extension of deputation tenure vide application dated 28.06.2018 (Annexure R-4/1) through the Deputy Director General (South West Region), NCB. The DDG (SWR) vide letter date 31.07.2018 (Annexure R-4/2) did not recommend the case of the applicant. Ultimately, respondent-authority has passed the impugned order dated 08.11.2018 (Annexure A/8) which is under challenge. The representation dated 10.11.2018 (Annexure A/9) addressed to the respondent No.2 for extension of his period of deputation was also pending.

12. The main contention of the applicant is that the applicant has been selected by UPSC for deputation to the post of Deputy Director/Zonal Director in NCB after assessing the past service of the applicant, his ACRs over

the years, his work performance, his efficiency and integrity etc. and having satisfied about the character, antecedents and credentials of the applicant, the respondent No.1 had forwarded the name of the applicant to UPSC for ascertaining further the merit of the applicant based upon the interview/personal talk to be held before the interview board of UPSC. On the basis of performance in the interview/personal talk the applicant's name was recommended by UPSC to respondent No.1 for appointment on deputation to the post of Deputy Director/Zonal Director NCB. Accordingly deputation was given as there have been no complaints of whatsoever kind regarding his work performance or behavior and on the contrary he has been graded as "very Good" in his ACRs recorded during the period his deputation. Further one year extension has already been granted to the applicant upto 18.11.2018 so, the impugned action of the respondents is against the settled principle of law.

13. On the other side the contention of the respondents is that the tenure of the applicant on deputation was of four years. Though the said tenure was extended for one year upto 18.11.2018 along with four other officers vide NCB Headquarter order dated 31.01.2017 (Annexure R/3). Thereafter the applicant submitted his willingness for extension of deputation tenure vide application dated 28.06.2018 (Annexure R-4/1) through the Deputy Director General (South West Region), NCB. The DDG (SWR) vide letter date 31.07.2018 (Annexure R-4/2) did not recommend the case of the applicant due to his poor performance and since his integrity has come under shadow as revealed in an enquiry conducted based on allegations made through a complaint.

14. The learned counsel for the applicant has relied upon the judgment passed by this Tribunal in the matters of Vinod Dialani vs. Union of India and others passed in O.A. No.201/00150/2017 dated 05.05.2017 wherein it has been stated that no person can be discriminated nor is it

open to the appointing authority to act arbitrarily or to pass any other in violation of Article 14 of the Constitution of India. He also relied upon the judgment passed by Hon'ble Apex Court in the matters of Union of India and another vs. S.N. Maity and another (2015) 4 SCC 164 wherein it has been held that order directing premature repatriation was absolutely silent on any aspect. Further such curtailment cannot be arbitrary or capricious but must have some rationale. Further the applicant has also relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh at Jabalpur in Writ Petition No.20857/2016 (Prabhu Shankar Shukla vs. State of M.P. and others) wherein it has been held that there is a difference between "appointment on deputation" and "transfer on deputation". The counsel for the applicant has also relied upon the judgment of Hon'ble Apex Court in the matter of Ashok Kumar Ratilal Patel vs. Union of India and another (2012) 7 SCC 757 wherein it has been held

that the distinction has been made between the appointment on deputation and transfer on deputation.

15. As per law settled by the Hon'ble High Court in the matter of Prabhu Shankar Shukla (supra) wherein the view taken in the matters of Ashok Kumar Ratilal Patel (supra) that there is a difference between "appointment on deputation" and "transfer on deputation" has been relied upon. The court poignantly held as under:-

"13. Ordinarily transfers on deputations are made as against equivalent post from one cadre to another, one department to another, one organisation to another, or one Government to another; in such case a deputationist has no legal right in the post. Such deputationist has no right to be absorbed in the post to which he is deputed. In such case, deputation does not result into recruitment, as no recruitment in its true import and significance takes place as the person is continued to be a member of the parent service.

14. However, the aforesaid principle cannot be made applicable in the matter of appointment(recruitment) on deputation. In such case, for appointment on deputation in the services of the State or organisation or State within the meaning of Article 12 of the Constitution of India, the provisions of Article 14 and Article 16 are to be followed. No person can be discriminated nor it is open to the appointing authority to act arbitrarily or to pass any order in violation of Article 14 of the Constitution of India. A person, who applies for appointment on deputation

has indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non- suitability or unsatisfactory work.

15. The present case is not a case of transfer on deputation. It is a case of appointment on deputation for which advertisement was issued and after due selection, the offer of appointment was issued in favour of the appellant. In such circumstances, it was not open for the respondent to argue that the appellant has no right to claim deputation and the respondent cannot refuse to accept the joining of most eligible selected candidate except for ground of unsuitability or unsatisfactory performance.”

16. In the instant case the selection has been done by the UPSC for appointment on deputation to the post of Deputy Director/Zonal Director, NCB. So the instant case is of appointment on deputation.

17. The main question for determination before the Tribunal is in what circumstances the deputation period can be curtailed. It is settled law when the specific tenure is specified in the appointment letter itself then the parties are to adhere to the conditions envisaged in the appointment letter itself. Admittedly the applicant was appointed on deputation as Deputy Director/Zonal Director

for four years and thereafter one year extension was also granted to the applicant till 18.11.2018 along with four other officers vide order dated 31.01.2017 (Annexure R/3)

In the present case, the applicant had further submitted willingness for extension of deputation vide application dated 28.06.2018 (Annexure R-4/1) through the Deputy Director General (SWR) NCB. It is pertinent to mention that DDG (SWR) vide letter date 31.07.2018 (Annexure R-4/2) did not recommend the case of the applicant due to his poor performance and since his integrity has come under shadow as revealed in an enquiry conducted based on allegations made through a complaint.

18. The other contention on behalf of the applicant is that the policy for deputation was amended in the year 2016 i.e. before completion of four years' tenure by the applicant and vide OM dated 28.12.2016 (Annexure A/7) issued by the Respondent No.1. It has been very categorically provided that all those officials who are on deputation to NCB as on 22.11.2016, their period of deputation would

automatically stand revised to 7 years in NCB/NIA and their cases were not required to be referred to respondent No.1 for extension. The counsel for the respondents submitted that the terms and conditions of the appointment shall be adhered in *stricto sensu* as the applicant was appointed earlier and this amendment (Annexure A/7) is not applicable to the applicant. If Annexure A/7 dated 28.12.2016 is seen the relevant portion Clause 2 is as under:-

“2. The matter has been considered and it has been decided that in order to save time and unnecessary correspondence for extending the deputation period of officers already on deputation to NCB/NIA prior to issue of policy guidelines dated 22nd November, 2016, on case to case basis, the period of deputation in respect of such officers would automatically stand revised 7 years in NCB/NIA and their cases need not be referred to this Ministry for seeking extension. However, their total tenure would not extend beyond 07 years.”

19. It is clear from this above Clause that in order to save time and unnecessary correspondence for extending the deputation period of officers already on deputation to NCB/NIA prior to issue of policy guidelines dated 22nd

November, 2016, on case to case basis, the period of deputation in respect of such officers would automatically stand revised 7 years in NCB/NIA and their cases need not be referred to this Ministry for seeking extension. However, their total tenure would not extend beyond 07 years. In the instant case the period of 4 years had already expired and one year extension was granted to the applicant till 18.11.2018. Thereafter the applicant again given willingness for extension of deputation vide application dated 28.06.2016 (Annexure R-4/1), which was rejected by the respondent-authority. So in view of Annexure A/7 the case of the applicant not automatically extended for seven years particularly this clause pertains to extension of deputation. Admittedly first extension was granted to the applicant but the second extension was not recommended by the competent authority on the reason of poor performance and since the integrity of the applicant is under shadow as revealed in an enquiry conducted on a complaint. The law settled by the Hon'ble Apex Court in

the matter of *Ashok Kumar Ratilal Patel* (supra) that deputation cannot be curtailed except if the work of deputationist is unsatisfactory and unsuitable. Para 14 of the said judgment reads as under:-

“14. However, the aforesaid principle cannot be made applicable in the matter of appointment(recruitment) on deputation. In such case, for appointment on deputation in the services of the State or organisation or State within the meaning of Article 12 of the Constitution of India, the provisions of Article 14 and Article 16 are to be followed. No person can be discriminated nor it is open to the appointing authority to act arbitrarily or to pass any order in violation of Article 14 of the Constitution of India. A person, who applies for appointment on deputation has indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non- suitability or unsatisfactory work.

(emphasis supplied)

20. In the reply to para 5.4 of the O.A., the respondent department has clearly mentioned lapses have been averred as under :-

“(a) That the accused persons brought to Indore Zone for interrogation, were taken to the room of ZD, Sh. B.R. Meena , IO being kept out of the case and thereby creating suspicion about his intentions

and integrity. This practice is observed to be an usual practice of the ZD, Shri B.R. Meena as revealed during the enquiry.

(b) Access of the system of Y-room interception was illegally extended to the room of Zonal Director, despite it being against the SOP of MHA for lawful interception.

(c) Case files were unduly delayed by the Zonal Director on the pretext of vetting. The Superintendent being an immediate supervisory officer was kept out of the case and involved only at the fag end i.e. when 180 days was getting over. This speaks about his inability to carry his team along and perfunctory supervision.

(d) The Indore Zone has submitted to NCB Headquarters, the destruction certificate stating that Y Room transcripts have been purged from their systems beyond retrieval except those which were required for case/investigation purposes. However, the procedures related to destruction of Y-transcripts were not followed as transcripts of 2013 onwards were present on the server hard disk during the enquiry which does not speak well about the officer's truthfulness and integrity.

(e) Shri B.R. Meena's supervision and control over his subordinates is found to be slack. Keeping away Mr. Amit Khare, Intelligence Officer, by not assigning cases for three years reflects his lack of ability as a supervisory officer to carry his team along.”

21. It has also come in the reply of the respondents that on inquiry it was revealed that the integrity of the applicant

is under shadow and the competent authority's duty to disassociate/disengage that officer from the duty, in public interest, and organizational interest, so that the further damage is not caused to the system. Hence, in organizational interest, deputation was not extended.

22. In view of the above position, we are of the view that the action taken by the respondent-department is as per law settled by the Hon'ble Apex Court and there is no ambiguity and illegality in passing the impugned order.

23. Resultantly, the Original Application is dismissed.

No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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