

(2019) 02 CAT CK 0181
In the Central Administrative Tribunal
Case No : Original Application No. 319 Of 2019

Harinder Pal Singh

APPELLANT

Vs

Ministry Of Law And Justice

RESPONDENT

Date of Decision : 19-02-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 02 CAT CK 0181

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Amarjit Singh Bedi, S.N. Verma

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant is working as Assistant Legal Advisor in the Ministry of Law. The Ministry of Finance issued a notification inviting applications for appointment of Recovery Officers in Debts Recovery Tribunal (DRT), Chandigarh, on deputation basis. The applicant responded to the same. The typical form, required not only the furnishing of particulars of the officer who seeks appointment on deputation basis but also the approval of his employer/parent department. In form II, the concerned authority of the Ministry of Law signed and stated that they will have no objection to relieve the applicant in case he is selected as a Recovery Officer in the DRT.

2. The applicant was selected by the Ministry of Finance through order dated 26.12.2018. He was required to give his consent for the same. On his part, the applicant gave his consent on 28.12.2018. The applicant contends that two officers of his batch who too were selected as Law Officers on deputation to work in a foreign country were relieved whereas similar treatment was not given to him. He submitted representation to the respondents on 08.01.2019 with a request to relieve him, so that he can report for duty in the DRT. Since no

response was forthcoming in this behalf, the applicant filed this OA.

3. The respondents filed counter affidavit opposing the OA. It is stated that the applicant did not fulfil the conditions for being sent on deputation as laid down in OM dated 26.03.2014 inasmuch as he did not complete ten years of service in the department. It is also stated that the application of the applicant was forwarded inadvertently and that the same does not confer any right upon him. As regards the plea of discrimination, the respondents contend that selection of two officers of the batch of the applicant was on Government to Government basis and accordingly, relaxation was given. Other grounds also pleaded in the counter.

4. We heard Sh. Amarjit Singh Bedi, learned counsel for the applicant and Sh. S.N. Verma, learned counsel for the respondents.

5. It is not in dispute that the applicant joined the service of the respondents in the year 2015 and he responded to the notification issued by the Ministry of Finance for appointment as Recovery Officer in DRT, on deputation. The form which is prescribed by the Government of India in the matter of deputation contains two parts. In the first part, the concerned employee is required to furnish his particulars. In the second part, the cadre controlling authority of the employee has to state no objection and give undertaking to the fact that in the event of the employee being selected for deputation, they would relieve him. Clause 6 of the Part II of the application submitted for deputation reads as under:

"6. It is hereby certified further that this Department/Office shall have no objection to the relieving of the said officer immediately, in case Shri/Smt/Ms. Harinder Pal Singh is selected for the post of Recovery Officer in Debts Recovery Tribunal."

This is signed by the cadre controlling authority. It is also necessary to mention that the application is forwarded by the concerned department and not straightaway by the applicant. He was selected by the Ministry of Finance and a letter of appointment was issued on 26.12.2018. The applicant was required to give his consent within a stipulated time and accordingly, he gave his consent on 28.12.2018.

6. It is no doubt true that the OM dated 26.03.2014 mandates that the application for deputation would be considered for being forwarded only if the employee puts in a minimum of ten years of service in the department. Other conditions are also laid down. It is a matter of record that the applicant did not complete ten years of standing in the department. However, there exists a clause which provides for relaxation of the guidelines, for reasons to be recorded.

7. It is no doubt true that no employee can claim the benefit of relaxation as a matter of right. However, if the department permitted him to incur certain obligations or to acquire certain rights, they cannot retract their steps to violate the right of the applicant. The employee got a legitimate expectation. It is not in

dispute that the respondents have relieved two officers of the applicant's batch to join as Law Officers on deputation basis. When they did not find it difficult to relieve them either by granting relaxation or otherwise, there is no reason why the applicant be not extended the same treatment. Viewed in the context of legitimate expectation of the applicant which in turn is generated on account of assurance given by the respondents themselves that they would relieve the applicant on being selected, or from the angle of the discrimination which is frowned at by Article 14 of the Constitution of India, the action of the respondents cannot be sustained. The factors such as administrative exigency in the department are required to be taken into account, before Part II in the form is signed and not after the candidate is selected.

8. We, therefore, allow the OA and direct the respondents to relieve the applicant to enable him to join the post of Recovery Officer in DRT within a period of four weeks, from today, if necessary, by granting the relaxation as was done in the case of two other Legal Advisors of the batch of the applicant. There shall be no order as to costs.