(2026) 01 CAT CK 1353

In the Central Administrative Tribunal, Ernakulam Bench, Ernakulam

Case No : Original Application No. 180, 00107 Of 2025

Kiran Sharma APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 28-01-2026

Acts Referred:

Citation : (2026) 01 CAT CK 1353

Hon'ble Judges : Sunil Thomas, Member (J);V.Rama Mathew, Member A

Bench : Division Bench

Advocate : Mathews K. Nelluvely, Reji Mathew M., Sabu K. Varghese, Joel Reji Mathew, Andrew Mathews

Final Decision : Allowed

Judgement

Sunil Thomas, Member J

1. The applicant herein joined as Inspector under the respondents Nos. 3 and 4 on 3.9.2012. While working as an Inspector in the Central Processing Cell attached to the office of the 3rd respondent she was appointed as Intelligence Officer in the Directorate of Revenue Intelligence, New Delhi, on deputation by Annexure A1 order dated 29.1.2019 for a period of five years. She joined as the Intelligence Officer under the 5th respondent on 1.3.2019. While so, by Annexure A2 order of the 4th respondent, she was promoted to the cadre of Superintendent of Central Tax and Central Excise by order dated 4.12.2023. She accepted her promotion with effect from the forenoon of 5.12.2023 and requested for proforma promotion to enable her to complete the remaining tenure of deputation under the 5th respondent. This request was forwarded by the 5th respondent by Annexure A3 communication. The 5th respondent specifically indicated in Annexure A3 that the request may be considered in terms of paragraph 17.4.1 of DoP&T OM dated 10.4.1989. According to the applicant, 4th respondent objected to Annexure A3 request with reference to paragraph 14.2 of DoP&T OM dated 27.3.2023. In the light of objection raised by the 4th respondent, 5th respondent addressed Annexure A4 communication

dated 3.1.2024 specifically pointing out that the case of the applicant was not one covered by paragraph 14.2 of DoP&T OM dated 27.3.2023 and reiterated that it fell under 17.4.1 of DoP&T OM dated 10.4.1989. It was pointed out that the applicant was involved in several sensitive investigations and she may be permitted to continue till the completion of deputation. It was also pointed out that the tenure can be extended for a further period of two years and that the applicant will be reverted to the parent zone within this prescribed time limit of two years.

2. Accordingly, the 4th respondent issued Annexure A5 order dated 7.2.2024 by which the applicant was granted proforma promotion and permitted her to rejoin the parent zone on or before 29.2.2024.

3. Since the applicant was involved in the investigation of several sensitive cases from the beginning of 2024 and that she had other serious personal issues, 5th respondent by Annexure A6 communication dated 25.4.2024 requested extension of her deputation or for lending her services on loan basis.

4. According to the applicant, there were few communications between the respondents Nos. 3 and 4 with the 5th respondent regarding extension of her deputation evidenced by Annexures A7 and A8 which were not within her knowledge at that time. By Annexure A7 it was informed that her term cannot be extended. On the other hand, by Annexure A8 communication of the 5th respondent addressed to the 3rd respondent it was specifically reiterated that the applicant was handling several highly sensitive issues and her presence was absolutely essential. Though the applicant was desirous to join the parent cadre at least by 28.2.2025 and tried to complete her entire pending works, she was relieved by Annexure A9 order dated 25.2.2025. According to the applicant, the 5th respondent stood by the original stand that she would be relieved only on 28.2.2025, as the deputation period will be over only on 28.2.2025 and it was indicated in Annexure A9 that she was relieved on completion of the deputation period.

5. Accordingly, she was relieved from Delhi on 25.2.2025 and the applicant reported before the 3rd respondent on 27.2.2025 itself. However, she was informed that she has to join the office as Inspector and has to undergo fresh process of promotion to the post of Superintendent. Since joining the office as Inspector after one year of her promotion would detrimentally affect her promotional aspects, financial benefits and professional pride, she submitted Annexure A10 representation dated 28.2.2025. Since it was not replied she has approached this Tribunal seeking the following reliefs:

"a. Declare that the applicant is eligible to rejoin the parent office (Central Tax and Central Excise, Thiruvananthapuram Zone) as Superintendent consequent to Annexure A9 relieving order.

b. Declare that the applicant is eligible for seniority in the cadre of Superintendent with effect from the date of promotion as per Annexure A2 order of the 4th respondent and that the applicant will be eligible for all consequential benefits.

c. Declare that as the appointment of the applicant as Superintendent as per Annexure A2 is a fully valid which is in force, the applicant is eligible to continue as Superintendent without any further selection process.

d. Declare that the applicant is eligible for all monetary benefits from the offices of the 3rd, 4th and 5th respondents on the basis of Annexure A2 and Annexure A5 orders, in accordance with the rules governing the matter.

e. Direct the 3rd and 4th respondents to permit the applicant to rejoin duty as Superintendent in the Central Tax and Central Excise, Thiruvananthapuram Zone with immediate effect."

6. When the came up for admission on 7.3.2025, respondents appeared and sought time to file objection. Since the applicant was expected to rejoin by 10.3.2025, we directed that the date of joining will stand extended till 14.3.2025. That order was being extended from time to time till the hearing of the interim relief sought by the applicant. Ultimately after hearing both sides, by our order dated 27.3.2025 as an interim arrangement the applicant was permitted to join as Superintendent in the parent office. The question whether she ought to have joined in the lower post and effective date of joining on promotion will be ultimately decided at the final stage. It is informed that the applicant has accordingly joined.

7. In the reply statement it was contended that Annexure A6 request of the 5th respondent by which he sought reconsideration of extension of applicant's tenure for one year until 28.2.2025 was rejected by Annexure A7 specifically mentioning that overstay while on deputation after 29.2.2024 was liable to be treated as irregular absence from duty by virtue of DoP&T OM dated 22.3.2023. By Annexure A12 it was indicated that the deputationist officer 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 was further contended that as per paragraph 4 of Annexure A12 it was the primary responsibility of the borrowing organizations to ensure that deputationists are relieved on the date of expiry of their deputation tenure. It was contended that in the light of Annexure A7 by which the request for extension of the deputation period was rejected, the period after 29.2.2024 was liable to be treated as irregular absence from duty. Annexure A8 was issued by the 5th respondent almost 5 months later on 16.10.2024 requesting for extension of tenure when it was clearly mentioned in letter dated 29.5.2024 that the request stood rejected by the Chief Commissioner. When the applicant got relieved on 25.2.2025 and reported to join the office of the 3rd respondent as Superintendent, the office had no authority to make her do so since the date for accepting the proforma promotion had expired on 29.4.2024 itself and neither the office had concurred to the

request of extension of deputation tenure beyond her 5 years period nor the limit for availing proforma promotion had been extended. Accordingly, the respondents sought for the dismissal of the Original Application.

8. Heard both sides and examined the records.

9. Basic facts are not in dispute. Admittedly, by Annexure A1 order dated 1.3.2019 the applicant was sent on deputation for a period of five years which was to expire on 1.3.2024. It was in the interregnum that she was promoted as Superintendent and by Annexure A5 she was granted proforma promotion with a direction to join on 29.2.2024.

10. It was pursuant to the above that extension was sought by one year, which was recommended by the 5th respondent by his communication dated 25.4.2024 marked as Annexure A6. It specifically referred to an earlier communication dated 7.12.2023 wherein the 5th respondent had sought for extension of deputation tenure of the applicant by one year, till 28.2.2025. It refers that the above communication sought a consideration of the proposal dated 7.12.2023. Evidently, by the time Annexure A6 communication was issued her original date of joining by virtue of Annexure A5 had lapsed and she was continuing. This request for extension by the 5th respondent was rejected only by order dated 29.5.2024. Evidently, by that time about three months has elapsed after the day prescribed for joining by virtue of Annexure A5. In Annexure A6, respondent No. 5 has specifically highlighted the reason for seeking extension of deputation that she was involved in the investigation of sensitive cases. Essentially it was a case wherein the 5th respondent specifically wanted the continuance of the applicant based on the sensitive matters which were pending investigation and pending before the Court. Pursuant to Annexure A7 rejection another communication dated 16.10.2024 was sent as Annexure A8 wherein the request for extension was reiterated. The reason for extension is again reiterated in Annexure A8. There is absolutely nothing on record to show whether this was replied. In the above circumstances, the applicant was not relieved and she was relieved only by Annexure A9 dated 25.2.2025. She reported for duty before the 3rd respondent on 27.2.2025 itself. Absolutely no laches can be attributed to the applicant since she was not relieved by the 5th respondent and the request of the 5th respondent was pending consideration before the 3rd and 4th respondents. Hence, the consequence of such act on the part of the 5th respondent, cannot recoil on the applicant.

11. In this regard the applicant and the 5th respondent specifically relied on paragraph 17.4.1 of DoP&T OM dated 10.4.1989 under the heading

“Promotion of officers on deputation”. It states as follows:

“If the panel contains the name of a person who has gone on deputation or on foreign service in the public interest including a person who has gone on study leave, provision should be made for his regaining the temporarily lost seniority in the higher grade on his return to the cadre. Therefore, such an officer need not be reconsidered by a fresh DPC, if any subsequently held.”

12. In the light of the above it cannot be said that the applicant was on unauthorized leave especially when request for her extension from the side of the 5th respondent was pending and she was not relieved by the respondents on ground of exigencies of service. In the light of the fact that the applicant was granted proforma promotion, the stand of the respondents Nos. 2, 3 and 4 that she should rejoin the post of Inspector does not appear to be sustainable also. Paragraph 17.4.1 of above is applicable to the applicant.

13. Our attention was also been drawn to Annexure A12 OM dated 22.3.2023 of the DoP&T which is relevant. It deals with the cases of review of cases of overstay while on deputation. The above also will come to the aid of the applicant herein. Having regard to this, we find that the applicant cannot be denied her right which she is legally entitled to.

14. Pursuant to our direction as to whether a DPC was convened for promotion to the post of Superintendent for the vacancy of 2026, it was reported in writing that a DPC was held for the vacancy of 2026 in December, 2025 in accordance with the prevailing DoP&T guidelines. The case of applicant was not considered in the DPC as the matter was sub judice before the Tribunal and accordingly, one vacancy was kept unfilled.

15. Having regard to the entire facts we find that the OA is only to be allowed. Accordingly, OA stands allowed. The applicant will continue as Superintendent with effect from the date she joined pursuant to our order dated 27.3.2025 and will be entitled for all the benefits thereon with effect from that date. No costs.