

(2019) 05 CAT CK 0045

In the Central Administrative Tribunal

Case No : Review Application No. 90 Of 2019, Contempt Application No. 150 Of 2019 In Original Application No. 319 Of 2019

Ministry Of Law And Justice

APPELLANT

Vs

Dr. Harinder Pal Singh

RESPONDENT

Date of Decision : 03-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 05 CAT CK 0045

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

Bench : Division Bench

Advocate : Hanu Bhaskar, S.N. Verma, Amarjit Singh Bedi,

Judgement

L. Narasimha Reddy, J

1. The respondents in OA No. 319/2019 filed this Application with a prayer to review the order dated 19.02.2019 passed by this Tribunal. For the sake of convenience, the parties are referred to as arrayed in the OA. In the OA, the relief pertaining to the deputation of the applicant to another department was claimed. It was stated that the applicant who is working as Assistant Legal Adviser in the Ministry of Law, was selected as a Recovery Officer in DRT to be appointed on deputation. The respondent was refusing to relieve him, stating that the applicant did not complete the stipulated service of ten years in the context of being permitted to go on deputation. One of the grounds pleaded by the applicant was that two officers of his batch, who too, did not complete the period of ten years of service, were relieved to enable them to accept offer in foreign country. That was taken note of and the OA was allowed, directing the respondents therein to relieve the applicant to enable him to join the post of Recovery Officer in DRT by granting relaxation, as they did in the case of two other Assistant Legal Advisers of the batch of the applicant.

2. In this RA, it is stated that the two officers mentioned in the order of the OA namely, Sh. Amit Tyagi and Sh. K.M. Arya, were not relieved at all, and that their

case for relaxation of relevant rules is under consideration.

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

4. We did take note of the plea of the applicant that two of his batchmates were granted relaxation. In Para 7, following observation was made

"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. "

The effect of this observation was, in fact, reflected in the relief portion also. Para 8 reads as under:

"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.

5. In the review petition, it is stated that the other two Assistant Legal Advisers were not granted relaxation and the proposal in their behalf is pending consideration. This fact is not disputed by the applicant. Therefore, the order in the OA needs to be modified duly taking into account, this fact. Therefore, we review the order dated 19.02.2019 in the OA by substituting Para 8 as under:

"8. We, therefore, allow the OA and direct the respondents to consider the case of the applicant along with the cases of Sh. Amit Tyagi and Sh. K.M. Arya in the context of granting relaxation of relevant rules as to the services to enable them to avail the benefit of deputation."

6. The RA stands disposed of accordingly. There shall be no order as to costs.

This contempt case is filed alleging non-compliance of the directions contained in order dated 19.02.2019 passed in OA No. 319/2019.

5 RA-90/19 and CP-150/19 in OA-319/19 In view of the order passed in RA No.

90/2019, this contempt case does not survive.

The same is, accordingly, closed.