

THE UNION OF INDIA AND ORS.

A

v.

SHRI GURU CHARAN DASS

APRIL 10, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

B

Service Law :

Deputation Allowance—Employees working in Project—On closure of Project appointed in Government service—Entitlement to deputation allowance—Held: Since offer of appointment given and it was accepted the employee is entitled to deputation allowance.

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 676 of 1988.

From the Judgment and Order dated 26.5.87 of the Central Administrative Tribunal, Cuttack in T.A. No. 267 of 1986.

D

P.P. Malhotra, Hemant Sharma and P. Parmeshwaran for the Appellants.

P.N. Misra for the Respondent.

E

The following Order of the Court was delivered :

This appeal by special leave arises from the order passed by the Central Administrative Tribunal at Cuttack in T.A. No. 267/86 on May 26, 1987.

F

The admitted facts are that the respondent was working in Hirakund Project prior to 30th March 1960. Consequent upon the closer of the Project, offer was given to several persons including the respondent for seeking appointment either in the State Service or in the Government of India service or to get retrenched. The alternative appointment in the Government project, namely, Dandakarnya Project was given to the respondent by letter dated March 9, 1960 by the Chief Administrator of that project. The letter of appointment read as under :

G

"The post in question carries the pay scale of 180-10- 300.... plus

H

A usual dearness allowances admissible to Central Government employees. In addition the following allowances have been sanctioned for the employees of the Dandakarnya Project and Sri Guru Charan Das will be entitled to them in addition to the extent admissible.

B (i) 25% deputation allowance, if he is already a permanent/quasi permanent employee, (ii) 20% project allowance regardless of whether he is permanent/quasi permanent or not (iii) Rent free tenanted accommodation in the area or the present.

C 3. In case the post is acceptable to Shri Guru Charan Das on these terms and conditions, he may be relieved from his duties so as to act as Publicity Officer at Koraput immediately but act later than 4th April 1960 after availing joining time, admissible under the rules."

D Obviously the respondent accepted the offer of appointment and in terms thereof by letter dated April 2, 1960, he was appointed temporarily as Publicity Organiser. Since deputation allowance was not paid to him, he filed a writ petition in the High Court. Consequent upon the constitution of the Tribunal, the writ petition was transferred to the Tribunal for disposal. The Tribunal has found as a fact that his continuance in Hirakund as U.D.C. was on permanent basis and that, therefore, he is entitled to the deputation allowance.

E Mr. P.P. Malhotra, learned senior counsel appearing for the appeal contends that since the respondent came to be appointed afresh on temporary basis in terms of the appointment letter, he is not entitled to the deputation allowance. We find no force in the contention.

F In view of the offer of appointment given to the respondent and the respondent having accepted the same, he is entitled to the deputation allowance of 25%. Since his status as a permanent U.D.C. was not disputed before the Tribunal and no tangible contra material has been placed before us justifying acceptance of the said finding recorded by the Tribunal, the respondent is entitled to deputation allowance as directed by the Tribunal.

G The appeal is accordingly dismissed. No costs.