

Union Of India Vs. Navneet Kumar

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Court : Supreme Court of India

Decided On : May-05-2022

Judge : Hon'Ble Mr. Justice L. Nageswara Rao Hon'Ble Mr. Justice B.R. Gavai

Appeal No. : C.A. No.-003656-003656 - 2022

Appellant : Union Of India

Respondent : Navneet Kumar

Advocate for Pet/Ap. : ARVIND KUMAR SHARMA __

Judgement :

Non-Reportable IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL No.3656 OF2022(Arising out of SLP (C) No.20919 of 2021) UNION OF INDIA & ORS. ... APPELLANT(S) Versus NAVNEET KUMAR ... RESPONDENT(S)

JUDGMENT

L. Nageswara Rao, J.

Leave granted.

1. The respondents request for extension of the term of appointment as a Judicial Member, Central Administrative Tribunal by another term was rejected by

Appointments Committee of the Cabinet (for short ACC) on 11.10.2019. The same was communicated to the respondent on 24.10.2019. A writ petition was filed by the respondent before the High Court of Judicature at Allahabad, Lucknow Bench, which was allowed by the High Court on 27.08.2021. Thus, this appeal has been filed by the appellant questioning the correctness of the judgment passed by the High Court.

2. It is necessary to refer to the relevant facts that have led to the filing of this appeal. On 19.05.2011, the respondent was approved by the competent authority to be appointed as Judicial Member of the Central Administrative Tribunal. On 30.05.2011, the respondent was appointed as a Judicial Member for a period of five years from the date of assumption of charge or till he attains the age of 65 years, whichever is earlier. He assumed charge as a Judicial Member, Central Administrative Tribunal, Kolkata Bench on 28.6.2011. In 2013, the respondent was transferred to Lucknow Bench of Central Administrative Tribunal at his request. Rules 9 and 10 were inserted in The Administrative Tribunals (Procedure for Appointment of Members) Rules, 2011 (for short 2011 Rules) by way of an amendment dated 21st March 2014. Rule 9 relates to the extension of term of 2 appointment of a member of the Central Administrative Tribunal.

3. A representation was made by the respondent on 21.12.2015 requesting for extension of his term as a Judicial Member of the Central Administrative Tribunal in accordance with the 2011 Rules. The Chairman, Central Administrative Tribunal, by a letter dated 21.12.2015, sent a proposal to Department of Personnel and Training (for short Do PT) for extension of the term of the respondent. The proposal of the Chairman, Central Administrative Tribunal along with the report received from the Intelligence Bureau were placed before the Selection Committee on 19.02.2016. The Selection Committee headed by a sitting Judge of this Court recommended extension of the term of the respondent. The said recommendation was approved by the Honble Chief Justice of India on 08.03.2016.

4. On 01.06.2016, the ACC requested the Do PT to re-examine the proposal for extension of the term of the respondent in light of the additional material that had surfaced. The Do PT submitted its remarks and thereafter, the ACC returned the

proposal for extension of term of respondent on 06.03.2017. The decision of the ACC was placed before the Selection Committee which was headed by a sitting Judge of this Court on 11.03.2017. The Selection Committee, took note of the decision of the ACC for returning the proposal for extension of term of the respondent, and recommended that the existing vacancies be carried forward to the next vacancy year, i.e.

2017. The decision of the Selection Committee was approved by the Chief Justice of India on 06.04.2017. Do PT, by a letter dated 12.04.2017, informed the Chairman of the Central Administrative Tribunal about the decision of the Selection Committee which was approved by the Chief Justice of India. The Committee recommended that both the vacancies may be carried forward to the next year i.e.

2017. 5. The respondent filed a writ petition seeking a direction to the appellants to issue appointment order for extension of his term as per Section 6(3) of the Administrative Tribunal Act, 1985. The High Court, by a judgment dated 08.05.2019, allowed the said writ petition 4 and set aside: (i) the order dated 06.03.2017 by which the respondent was informed that the ACC has returned the proposal for extension of the term of the respondent; and (ii) order dated 12.04.2017 by which Do PT informed the Chairman, Central Administrative Tribunal about the decision by the Selection Committee which was approved by the Chief Justice of India. The High Court further directed ACC to decide on the recommendations of the Selection Committee and pass appropriate orders within a period of 4 months. Thereafter, the ACC passed an order on 11.10.2019 denying extension of term of appointment to the respondent for another term as Judicial Member, Central Administrative Tribunal and the same was communicated to the respondent on 24.10.2019. Being aggrieved, the respondent filed a writ petition before the High Court of Judicature at Allahabad, Lucknow Bench challenging the validity of the order dated 11.10.2019. The High Court passed the impugned judgment and allowed the writ petition directing the competent authority to take a decision afresh regarding extension of the respondents term of appointment as Judicial member of 5 Central Administrative Tribunal within a period of ten weeks from the date of receipt of the order.

6. The High Court was of the opinion that in view of the earlier judgment dated 08.05.2019, the letter dated 12.04.2017 written by the Do PT to Chairman, Central Administrative Tribunal was quashed. Resultantly, the decision of the Selection Committee for carrying forward the vacancies to the next year i.e., 2017 was also quashed by the High Court and could not have been relied upon by the Do PT again. In spite of certain complaints that were received by the concerned authorities against the respondent, the High Court held that the entire record was examined before the judgment dated 08.05.2019 was passed, in which it was held that there was nothing adverse against the respondent in the said complaints. The High Court found fault with the proposal of the Do PT as they have not taken into consideration the findings recorded in its earlier Judgment dated 08.05.2019. The said proposal of Do PT was the basis for the decision taken by the competent authority. The High Court was of the view that the recommendation made by the 6 Administrative Department that was sent to the competent authority could not have been relied upon for the purpose of rejecting the extension of the respondents term. The decision of ACC should be without considering any inputs of the Do PT, strictly in accordance with Rule 9(4) of the 2011 Rules. The High Court found fault with the decision of the ACC as it was contrary to the recommendations made by the Selection Committee which was approved by the Chief Justice of India. The High Court allowed the writ petition and directed the ACC to take a decision afresh for the grant of extension of the respondents term of appointment as Judicial Member of the Central Administrative Tribunal.

7. On behalf of the appellants, Mr. Sanjay Jain, learned Additional Solicitor General, submitted that the High Court committed an error in holding that the recommendation made by the Selection Committee for carrying forward the vacancies to the next year i.e. 2017, stood set aside by the judgment of the High Court dated 08.05.2019. According to learned ASG, after the recommendation was made by the Selection Committee to the competent 7 authority, the additional material which came to the notice of the authorities was placed before the Selection Committee. Pursuant thereto, the Selection Committee decided that the vacancies which were to be filled up by the appointment of the respondent and Shri A.K. Bhardwaj should be carried forward to the next year i.e.

2017. The said recommendation of the Selection Committee was approved by the Chief Justice of India. It was further argued by Mr. Jain that the High Court, by a judgment dated 08.05.2019, only directed the competent authority to pass an order in accordance with Rule 9(4) of the 2011 Rules. It was contended on behalf of the appellants, that a suitable order in terms of the recommendations made by the Selection Committee which was approved by the Chief Justice of India was passed.

8. Mr. Pradeep Kant, learned senior counsel appearing on behalf of the respondent, stated that the recommendations made by the Selection Committee to extend the tenure of the respondent has to be complied with by the competent authority. However, the competent authority taking into account certain inputs given by DoPT⁸ referred the request of the respondent for extension of term of appointment to the Selection Committee. The request that was made by ACC to the Selection Committee relates only to carrying forward the vacancies of 2016 to the next year which was approved by the Selection Committee. The said approval does not amount to rejection of the respondents request for extension of his tenure for another term. It was submitted on behalf of the respondent that the judgement of the High Court dated 08.05.2019, set aside the proceedings dated 06.03.2017 by which the ACC had returned the proposal for extension of term of appointment of the respondent and the letter dated 12.04.2017 by which the Chairman, Central Administrative Tribunal was informed about the rejection of extension of tenure of the respondent was also set aside. Learned senior counsel appearing for the respondent, supported the impugned judgment by arguing that the High Court, in its judgement dated 08.05.2019, had already considered the complaints that were made against the respondent which was the basis for the rejection of the respondents request for extension of his 9 term. The High Court, in its judgment dated 08.05.2019, observed that there was nothing adverse against the respondent on the basis of which the request for extension could be rejected.

9. The facts of this case are not in dispute. Initially, the Selection Committee headed by a sitting Judge of this Court recommended the extension of the respondent as Judicial Member of the Central Administrative Tribunal for another term. The said recommendation was approved by the Chief Justice of India.

Thereafter, additional material surfaced which was placed before the Selection Committee by the Competent Authority for seeking review of the earlier decision. We have carefully examined the original record. It is clear from the record that the Selection Committee recorded that the ACC had returned the proposal for extension of the tenure of the respondent after taking a decision not to fill up the vacancies by extending the term of the respondent and Shri A.K. Bhardwaj. It was recommended by the Selection Committee to carry forward the said vacancies to the year 2017. Therefore, we are not in agreement with the 10 contention of the respondent that the recommendation made by the Selection Committee to carry forward the 2016 vacancies to year 2017 does not amount to rejection of the request of the respondent for extension of his term as Judicial Member of the Central Administrative Tribunal. There cannot be any manner of doubt that a conscious decision was taken by the Selection Committee not to recommend the extension of tenure of the respondent. The decision taken by the Selection Committee was duly approved by the Chief Justice of India.

10. The High Court committed an error in holding that the recommendation made by the Selection Committee to carry forward the vacancies to year 2017 was set aside by the High Court, in its earlier order dated 08.05.2019. The reason given for such conclusion is that the letter dated 12.04.2017 by which Do PT informed the Chairman of the Central Administrative Tribunal that the said vacancies of 2016 will be filled up along with the vacancies for the year 2017 was set aside. A close scrutiny of the judgment dated 08.05.2019 would show 11 that the direction of the High Court was that the ACC should pass an order in accordance with Rule 9(4) of the 2011 Rules pursuant to the recommendations made by the Selection Committee and approved by the Chief Justice of India. Setting aside the order dated 12.04.2017 cannot be understood as the recommendation of the Selection Committee being set aside.

11. The ACC did not take any decision contrary to the recommendation made by the Selection Committee which was approved by the Chief Justice of India. Pursuant to the direction issued by the High Court on 08.05.2019, the order passed on 11.10.2019 by the ACC is neither contrary to the recommendation made by the Selection Committee nor in violation of the directions issued by the

High Court.

12. For the foregoing reasons, the impugned judgment of the High Court is set aside. The appeal is allowed.J.

[L. NAGESWARA RAO].J.

[B. R. GAVAI]. New Delhi, May 5, 2022 12

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