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Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 2010/99

New Delhi this the 27th day of January, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC(J)  
Hon'ble Mr. R. K. Ahooja, Member (A)

Kanwal Nain,  
TGT Maths (Maths),  
Sarvodaya Vidyalaya (Girls)  
Sector 6, R.K. Puram, New Delhi.

...Applicant

(By Advocate: Shri P.V. Dinesh)

Versus

1. Delhi Administration  
through its Chief Secretary  
5, Sham Nath Marg, Delhi-54
2. Director of Education  
Delhi Administration  
Old Secretariat, Delhi-54
3. The Joint Director of Education  
(Administration)  
Delhi Administration,  
Old Secretariat, Delhi-54

...Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (Oral)

By Mr. R.K. Ahooja, Member (A)

The applicant who is a Trained Graduate Teacher (Maths) and was recruited in the Education department of Haryana Government, had sought deputation to the Directorate of Education, Govt. of NCT of Delhi in 1994. Her case was considered by the respondent No.2 and she was taken on deputation and joined w.e.f. 23.9.94 the Government Girls Sr. Sec. School, Sector-7, R.K. Puram, New Delhi. She submits that she had applied to seek deputation to the Govt. of NCT of Delhi because of compelling domestic circumstances and her case for deputation was considered on the basis of similar

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decision in other similar cases. She also states that she has been working against a sanctioned post and has not claimed any deputation allowance. According to the applicant, the main reason for seeking the deputation was that her husband was working as a Personal Assistant in the Ministry of Personnel, Public Grievances and Pensions against a non-transferable post. This situation continues to prevail. Moreover, her children are studying in Class IV and VI in the Hope Hall Foundation School, in New Delhi and if she is repatriated back to Haryana then their education will also suffer. The grievance of the applicant is that by the impugned order dated 12.8.99 she is being repatriated w.e.f. 22.9.99.

2. The respondents in the reply have stated that they have taken a policy decision in June 1998 not to absorb any teacher who is working on deputation basis. Accordingly the case of the applicant was considered alongwith other similar cases and was rejected. They point out that the applicant has already been allowed to work on deputation ~~for~~ relaxation of the Recruitment Rules. Her request for permanent absorption having been rejected, she was ordered to be repatriated on the expiry of the last term of extension granted to her.

3. We have heard the counsel. Clearly a person who comes on deputation has no right for absorption. The Supreme Court has also held in the case of Rati Lal B Soni & Ors. Vs. State of

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Gujarat held that a Government servant on deputation can be repatriated to his parent cadre at any time and that such a Government servant does not get any right to be absorbed on the deputation post. The applicant thus in terms of the law laid down by the Supreme Court has no right whatsoever for automatic absorption under the Government of NCT of Delhi. Learned counsel for applicant, however, argues that ~~in~~ certain decisions <sup>were</sup> taken by the respondents in the past wherein teachers on deputation had ~~be~~ been absorbed by the respondents. He submits that since the respondents had, in the past, in cases where there were similar compelling domestic considerations, granted absorption, the rejection of the case of the applicant tantamounts to arbitrariness and discriminatory treatment. He also cites the case of Smt. Krishna Katarya Vs. Govt. of NCT of Delhi in OA No. 1437/99 decided on 15.6.99 wherein this Tribunal had issued a direction to the respondents to consider the permanent absorption of a deputationist on the ground that similar action had been taken by the respondents in 16 other similar cases.

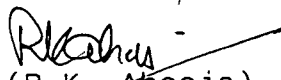
4. We are not impressed by the above arguments of the learned counsel. It is open to the respondents to decide on absorption of Teachers as per their requirement in different disciplines. Further more the respondents have categorically stated in their reply that they have taken a decision in June 1998 that no further absorption would take place. It lies

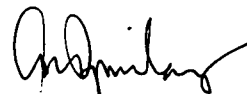
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within the domain of executive policy to take a decision that for administrative reasons they will not permanently absorb deputationists. Since such a policy decision has been taken the applicant's case has also been rejected. We, therefore, do not consider that any interference is called for by this Tribunal.

5. However, the applicant has made a plea that her children are studying in Schools in Delhi and that her repatriation would upset their studies. The order of repatriation of the applicant has been issued in September 1999 i.e. in mid-academic session. This Tribunal had also granted an interim order that the status quo in respect of the applicant may continue till the final hearing of the matter. We are already in the month of January. In the circumstances, we consider that the order in respect of repatriation of the applicant may not be carried out till 15th May 2000 i.e. till the conclusion of the current academic session 1999-2000.

6. Subject to the above observations, the OA is dismissed. No costs.

  
(R.K. Ahooja)  
Member (A)

  
(V. Rajagopala Reddy)  
Vice-Chairman (J)

cc.