

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH**

**ORIGINAL APPLICATION NO.170/00242/2020**

ORDER RESERVED ON 14.07.2020

DATE OF ORDER: 21.08.2020

**CORAM:**

**HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)**

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

**HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)**

(On video conference from his residence at New Delhi)

Dr. Parimal Roy,  
S/o Late Gopal Chandra Roy  
Aged about 58 years,  
Working as Director,  
Indian Council of Agricultural Research  
NIVEDI, Bengaluru,  
Residing at No. 31/1, 8<sup>th</sup> Cross,  
VRC Complex, Anantapur,  
Yelahanka,  
Bengaluru 560 064

....Applicant

(By Advocate Shri Vishwanath Bhat - through video conference)

Vs.

1. The President,  
Indian Council of Agricultural Research  
Krishi Bhavan,  
New Delhi 110 01

2. The Director General  
Indian Council of Agricultural Research  
Krishi Bhavan,  
New Delhi 110 001

3. The Director (Per)  
Indian Council of Agriculture Research  
Krishi Bhavan,  
New Delhi

.....Respondents

(By Advocate Shri B.A. Chandrashekar - through video conference)

**ORDER****PER: SURESH KUMAR MONGA, MEMBER (J)**

Pleaded case of applicant herein is that by virtue of his merit and qualification, he entered into the services of Tamil Nadu Veterinary and Animal Sciences University, Chennai (hereinafter called as the 'parent organization') in the year 1989 as Assistant Professor. He undertook research in veterinary sciences and was conferred with a Doctorate degree in the year 1995. He acquired the Post Doctorate in research at University of Alabama (USA) during the year 1999 - 2000. He was promoted as Professor in the faculty of Veterinary - Microbiology in the year 2005. Subsequently, in the year 2016, when he was working as a Professor and Head of Central University Laboratory, a notification came to be issued for selection and appointment to the post of Director-ICAR, National Institute of Veterinary Epidemiology and Disease Informatics, Bengaluru (hereinafter called as 'NIVEDI') on tenure basis for a period of 5 years. Pursuant to said notification, the applicant applied for selection and appointment to said post through proper channel. He remained successful in the selection process and, consequent thereto, the Indian Council of Agricultural Research, New Delhi (hereinafter called as the 'borrowing organization') appointed him as Director of NIVEDI vide Office Memorandum dated 27.09.2016. His appointment to the post of Director was on deputation basis for a tenure of 5 years or until further orders whichever is earlier. The order of appointment of applicant was sent to his parent organization under whose control he was working at the time of issuance of said order. Accordingly, the applicant was

relieved by his parent organization on 29.09.2016. On being relieved, he reported for duty as Director, NIVEDI on 30.09.2016. The applicant having assumed the charge of the post of Director, NIVEDI have been discharging his duties with devotion and to the utmost satisfaction of his superiors. It has been averred that he was shocked and surprised to receive an order dated 07.09.2018 by which he was placed under deemed suspension with effect from 01.09.2018 by invoking the provisions of Rule 10 (2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (hereinafter called as 'the 1965 Rules'). While he was under deemed suspension, he was served with another order dated 10.10.2018 by the borrowing organization through which his services were repatriated to his parent organization.

2. Aggrieved by the aforesaid order dated 10.10.2018, the applicant preferred the Original Application No. 1758/2018 before this Tribunal and the said order was stayed on 12.11.2018 as an interim measure. By way of a subsequent order dated 11.12.2018, this Tribunal also directed the respondents to reinstate the applicant immediately with all consequential benefits. Since the respondents failed to comply with the said interim order, therefore, the Contempt Petition No. 5/2019 was filed by the applicant. During pendency of the said contempt petition, the respondents vide their order dated 22.01.2019 had approved the reinstatement of the applicant with all consequential benefits with effect from 12.12.2018. Consequent thereto, the contempt proceedings against the respondents were dropped by this Tribunal. It has been stated by the applicant that under his directorship, several awards were given to NIVEDI by various statutory authorities. While

recognizing his services as Director, several other Associations/Institutions had also awarded the applicant. It has further been averred that the applicant was again shocked and surprised to receive an order dated 17.03.2020 from the borrowing organization vide which he was ordered to be repatriated to his parent organization.

3. Aggrieved by the aforesaid order dated 17.03.2020, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

4. The respondents by way of filing a joint reply have joined the defence and have prayed for dismissal of the Original Application. It has been pleaded that according to the terms and conditions of Memorandum dated 27.09.2016, the appointment of the applicant to the post of Director, NIVEDI, Bengaluru was on tenure basis for a period of 5 years or until further orders whichever is earlier and, therefore, the said offer was not for an absolute term of 5 years. The impugned order is sought to be justified by stating that the term '*or until further orders whichever is earlier*' makes it crystal clear that the said term was incorporated to tackle with any unforeseen administrative exigency which may require curtailment of the tenure of appointee. It has been averred that in this case an unforeseen situation has arisen in the month of September, 2018 as the Telangana Police authorities intimated that the applicant was arrested from NIVEDI campus, Bengaluru on 31.08.2018 and he remained in custody with effect from 01.09.2018 as the matter was to be investigated. An FIR No. 48/2018 was registered

against the applicant under Sections 376 and 506 of the Indian Penal Code, therefore, according to rules, he was placed under suspension immediately by the competent authority in borrowing organization. It has further been averred that, in the given circumstances, if the applicant would have been a permanent employee in the borrowing organization, he would have been subjected to simultaneous disciplinary proceedings. Since the applicant is a permanent employee of his parent organization, therefore, the said organization only could take disciplinary action against him. An incumbent who is holding such a senior position cannot be allowed to continue when he is facing charges of committing a heinous crime and, under these compelling circumstances, he has been ordered to be repatriated to his parent organization while using option available in his appointment order.

5. The borrowing organization has not ordered the applicant's repatriation to his parent organization because of his bad service record, instead it is due to compelling circumstances which have arisen because of his involvement in a criminal case. The applicant was arrested from NIVEDI campus, Bengaluru on 31.08.2018 and he made an attempt to suppress the material fact by applying casual leave from 01.09.2018 to 04.09.2018, the period during which he remained in the custody of Telangana Police. The criminal case against him is under process as the Telangana Police has filed a chargesheet against him before a competent court of law. The borrowing organization cannot initiate the disciplinary proceedings against the applicant and, under the compelling circumstances, he has been ordered to be repatriated to his parent organization. The Minister of Agriculture and

Farmers Welfare, Government of India, being the competent authority, accorded approval to his repatriation with an advice to his parent organization to take suitable action as deemed fit into the matter.

6. While filing rejoinder to reply, apart from reiterating the facts already pleaded in the Original Application, the applicant has further pleaded that neither in the notification nor in the appointment order there was any condition stating therein that if the applicant is involved in a criminal case during his tenure, his services will be repatriated to his parent organization. It has still further been averred that, on the date of appointment, there was no criminal case pending against the applicant. A criminal case has been registered against him based on certain allegations and those allegations are false. It has been admitted by the applicant that he was arrested and he remained in custody for more than 48 hours. He intimated the respondents about the said fact after his release on bail. It has further been pleaded that the criminal case has been foisted against the applicant by one Dr. Sharmila Badal Chandra Majee with an ulterior motive and the same has nothing to do with discharge of his official duties as Director, NIVEDI, Bengaluru.

7. With all these assertions, the applicant has submitted that the order dated 17.03.2020 vide which he has been repatriated to his parent organization cannot be sustained and the same deserves to be quashed.

8. Heard learned counsels for the parties.

9. Shri Vishwanath Bhat, learned counsel representing the applicant, submitted that the order dated 17.03.2020 repatriating the applicant to his

parent department cannot be sustained in the eye of law being stigmatic as a bare perusal of the said order reveals that the same has been passed while considering the gravity of the charges against him. Learned counsel further submitted that a stigmatic order could not have been passed by the borrowing organization without affording an opportunity of hearing to the applicant. It was his contention that even an enquiry ought to have been conducted by the borrowing organization as the applicant has been framed in a false criminal case by Telangana Police. Had there been an opportunity to show cause before issuance of order dated 17.03.2020, the applicant would have certainly proved before the borrowing department that he has been framed in the criminal case with an ulterior motive. Learned counsel further submitted that neither any opportunity of hearing was given to the applicant nor an enquiry was conducted by the borrowing organization, therefore, the impugned order dated 17.03.2020 deserves to be quashed being contrary to the doctrine of *audi alterum partem*.

10. Shri Vishwanath Bhat while referring to various clauses of Memorandum dated 27.09.2016 further submitted that the tenure of applicant's deputation to borrowing organization is for a period of 5 years and the said tenure cannot be curtailed by the authorities of the said organization arbitrarily and whimsically.

11. Shri Bhat, learned counsel for the applicant, further argued that before issuance of impugned order dated 17.03.2020, even a prior consultation with the parent organization did not take place and, therefore,

the unilateral order passed by the borrowing organization cannot be sustained.

12. To support his arguments, learned counsel placed reliance upon the judgments of this Tribunal in **Sushovan Banarjee vs Union of India** (OA No. 387/2010 decided on 08.09.2010) and **Rajeev Ranjan vs The Secretary** (OA No. 4500/2014 decided on 29.01.2015) and also the judgments rendered by the Hon'ble Supreme Court in **Ashok Kumar Ratilal Patel vs Union of India** 2012 (7) SCC 757 and **Union of India vs. S.N. Maity** AIR 2015 SC 1008.

13. Per contra, Shri Chandrashekar, learned counsel representing the respondents, submitted that the applicant was deputed to borrowing organization for a period of 5 years or until further orders, whichever event takes place earlier. The event of issuance of the order of repatriation has taken place earlier as the applicant has been found to be involved in a case registered against him by the Telangana Police under Sections 376 and 506 of the Indian Penal Code. Since the applicant is a permanent employee of his parent organization i.e., Tamil Nadu Veterinary and Animal Sciences University, Chennai, therefore, the borrowing organization was not in a position to initiate any disciplinary proceedings against him and accordingly he has been ordered to be repatriated to his parent organization. The said order is an order simpliciter and question of casting any stigma on the applicant does not arise. Shri Chandrashekar argued that the order of repatriation was passed within the accepted parameters because of his unsuitability in the borrowing organization as presently he is facing the



charges before a competent court of law under Sections 376 and 506 of the Indian Penal Code. Learned counsel still further submitted that, in the given circumstances, neither it was within the domain of the borrowing organization to hold an enquiry against the applicant nor any opportunity of hearing was required to be afforded. It will be for the parent organization either to initiate the simultaneous disciplinary proceedings or not to do so. In order to support his arguments, learned counsel placed reliance upon a judgment of the Principal Bench of this Tribunal in the case of **R.P. Juyal vs. the Secretary** (OA No. 4137/2013 decided on 06.02.2014).

14. Considered the rival contentions of learned counsels for the parties and perused the record.

15. Undisputably the applicant had been working as Professor and the Head of Department with his parent organization and there he has maintained his lien. He was appointed as Director, NIVEDI by the borrowing organization vide order dated 27.09.2016 on tenure basis for a period of 5 years or until further orders whichever is earlier. The said appointment was ordered to be on deputation on usual foreign-service terms basis without any deputation allowance. However, the applicant's parent organization relieved him with effect from 29.09.2016 in order to take up his appointment as Director, NIVEDI, Bengaluru for a period of 3 years. Consequently, the applicant assumed the charge as Director, NIVEDI, Bengaluru on 30.09.2016. After a period of about 2 years, an FIR No. 48/2018 dated 19.03.2018 came to be registered against him at Mahankali Police Station, Hyderabad City, under Sections 376 and 506 of the Indian Penal Code. The

said FIR was registered at the instance of one Dr. Sharmila Badal Chandra Majee wife of Badal Chandra Majee. As a result of registration of said FIR, the applicant was arrested by the Telangana Police on 31.08.2018 from NIVEDI campus, Bengaluru. The applicant, instead of apprising his borrowing organization about his arrest by Telangana Police, opted to apply for casual leave from 01.09.2018 to 04.09.2018 with permission to leave the station. When the matter came to the notice of the borrowing organization, the applicant, vide order dated 07.09.2018, was placed under suspension with effect from 01.09.2018 by invoking the provisions of Rule 10 (2) of 'the 1965 Rules'. Thereafter an order dated 10.10.2018 was issued by the applicant's borrowing organization repatriating his services to his parent organization. The said order became the subject matter of challenge before this Tribunal in OA No. 1758/2018 on the ground that, during suspension, the applicant could not have been ordered to be repatriated to his parent organization. While issuing notices to the respondents on 12.11.2018, this Tribunal had stayed the order of applicant's repatriation to his parent organization. Alleging violation of the said interim order, even a Contempt Petition No. 5/2019 was filed by the applicant in which the respondents were put to notice by this Tribunal. During pendency of the said Contempt Petition, the borrowing organization vide its order dated 22.01.2019, had approved the applicant's reinstatement in service with all consequential benefits. However, after the applicant's reinstatement in service, vide order dated 17.03.2020 the borrowing organization again repatriated the

applicant's services to his parent organization. The said order is under challenge in the present Original Application.

16. The argument of learned counsel for the applicant to the effect that the impugned order dated 17.03.2020 is a stigmatic order and the same could not have been issued by the borrowing organization without affording him an opportunity of hearing, does not find favour with us. A bare perusal of the said order reveals that the applicant is a permanent employee of his parent organization and his borrowing organization cannot initiate any disciplinary proceedings in the wake of his involvement in a criminal case and, therefore, he has been ordered to be repatriated to his parent organization. It is a settled proposition of law that a borrowing organization cannot initiate disciplinary proceedings against an employee who is on deputation. It is also well settled by now through various judicial pronouncements by the Hon'ble Supreme Court that simultaneous departmental proceedings can continue with the criminal proceedings. Reference in this regard can be made to **Stanzen Toyotetsu India Private Limited vs. Girish V and others** 2014 (3) SCC 636, **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. And Another** 1999 (3) SCC 679 and **State of Rajasthan vs. B.K. Meena and others** 1996 (6) SCC 417. Therefore, in our considered view, no fault can be found with the action of the borrowing organization where the applicant has been ordered to be repatriated to his parent organization. The respondents have maintained a clear stand before this Tribunal that the rules warrant initiation of simultaneous departmental proceedings which cannot be initiated by it as

the applicant is on deputation and only his parent organization can take disciplinary action against him. It is only under these compelling circumstances, the applicant has been ordered to be repatriated to his parent organization while utilizing the option available in his terms of appointment/deputation and no fault can be found with the same.

17. The reliance of the applicant's counsel upon a judgment of this Tribunal in **Sushovan Banarjee** (supra) in order to support his arguments is highly misplaced. It was a case where the candidature of an IPS officer of 1989 batch Madhya Pradesh cadre was considered for appointment on deputation basis to the post of Chief Executive Officer, Children's Film Society of India, Mumbai for a period of 3 years and the said term of deputation was curtailed just after a period of about 16 months. The order of repatriation was sought to be justified on the ground that Sushovan Banarjee was not working in harmony with Ms. Nandita Das, Filmmaker and the Chairperson of the Children's Film Society of India, Mumbai. This Tribunal, after examining the record of the case therein, found the plea of the respondents regarding interference by the applicant in the Chairperson's working as vague, hypothetical and unsupported by any evidence. Apart from this, this Tribunal also arrived at a conclusion that the order of repatriation was issued in haste and the reasons mentioned by the respondents in their reply did not exist in the file and as such finding their action contrary to the principles laid down by the Hon'ble Supreme Court in **Mohinder Singh Gill Vs. Chief Election Commissioner** 1978 (1) SCC 405, the order of repatriation of the applicant therein was held to be illegal

and the same was set aside. Whereas, the facts and circumstances of the case in hand are totally different as the respondents herein have not acted upon any such complaint received by them against the applicant. It is only because of the reason that continuance of the applicant at such a high post has hampered his suitability because of his involvement in a criminal case and the borrowing organization is not in a position to initiate simultaneous departmental proceedings which the rules warrant.

18. In our considered view, the judgment of the Hon'ble Supreme Court in **S.N. Maity** (supra) will again be of no assistance to applicant's case. In the said case, the Hon'ble Supreme Court had arrived at a conclusion that the order curtailing the deputation period of the officer was issued without any justifiable reason. While observing that the order of deputation was not by way of a simple transfer and the same was with a fixed tenure of appointment, therefore, in those facts and circumstances, it was ruled that curtailment of such a fixed tenure cannot be done in an arbitrary or capricious manner. The observations made by the Hon'ble Supreme Court in paragraph 16 and 18 of the report are reproduced here as under:

*"16. The controversy that has emerged in the instant case is to be decided on the touchstone of the aforesaid principles of law. We have already opined that it is not a case of simple transfer. It is not a situation where one can say that it is a transfer on deputation as against an equivalent post from one cadre to another or one department to another. It is not a deputation from a Government Department to a Government Corporation or one Government to the other. There is no cavil over the fact that the post falls in a different category and the 1st respondent had gone through the whole gamut of selection. On a studied scrutiny, the notification of appointment makes it absolutely clear that it is a tenure posting and the fixed tenure is five years unless it is curtailed. But, a pregnant one, this curtailment cannot be done in an arbitrary or capricious manner.*

*There has to have some rationale. Merely because the words 'until further orders' are used, it would not confer allowance on the employer to act with caprice.*

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*18. The order is absolutely silent on any aspect. An argument has been advanced by Mr. Gonsalves, learned senior counsel for the 1st respondent that this letter was issued because of some frivolous complaints made against the 1st respondent and also regard being had to his stern and strict dealings by him pertaining to certain aspects. Be that as it may, the letter is absolutely silent and it has curtailed the tenure of posting without any justifiable reason. Regard being had to the nature of appointment, that is, tenure appointment, it really cannot withstand close scrutiny. Therefore, the judgment passed by the High Court lancing the said order cannot really be found fault with."*

19. In the case in hand, we find that the borrowing organization has a justifiable reason with it and, therefore, the applicant has been ordered to be repatriated to his parent organization.

20. So far as the judgment of the Hon'ble Supreme Court in **Ashok Kumar Ratilal Patel** (supra) is concerned, the principles enunciated in the said judgment can also not be applied to the case in hand. It was a case where the deputationist was initially appointed on 25.08.2000 as Director, Computer Department in Hemchandracharya North Gujarat University and he applied for appointment to the post of Director, AICTE on deputation basis pursuant to an advertisement published on 13.09.2009. After considering the suitability and eligibility of the deputationist along with various other applicants, an offer of appointment was issued to him on 15.02.2010 with a deputation period of one year extendable for a total period not exceeding three years on yearly basis. The said offer of appointment was withdrawn vide letter dated 11.03.2010 on the ground that deputation

from a higher post to a lower post is not permissible under the rules. Finding that no stipulation was made in the advertisement that a person receiving higher scale of pay or higher qualification is ineligible for appointment on deputation, and while recording that the appointment was on deputation for which an advertisement was issued and the said appointment was made after following due process of selection, the order of withdrawal of offer of appointment was held to be bad and a direction was issued to AICTE to accept the joining report of the deputationist.

21. Even the judgment of this Tribunal in **Rajeev Ranjan's** case (supra) relied upon by learned counsel for the applicant will be of no assistance to his case as in the said case the extended term of one year of deputation was abruptly curtailed based on the feedback received from the trade and industry that the officer's continuance would adversely affect the export promotion efforts. In the facts and circumstances of the said case, the sudden and abrupt repatriation without notice was held to be arbitrary. Whereas, in the case in hand, the action of the borrowing organization in curtailing the applicant's term of deputation can neither be termed as abrupt nor it can be termed to be unjust. As per the applicant's own version in Miscellaneous Application No. 179/2020 the jurisdictional police have filed the chargesheet on 07.01.2019 before the XI Fast Track Court for Atrocity against Women-1, Hyderabad. The applicant is facing charges before the said court under Sections 376 and 506 of the Indian Penal Code. In any case, in view of the law laid down by the Hon'ble Supreme Court in **Stanzen Toyotetsu** (supra), **Capt. M. Paul Anthony** (supra) and **B.K. Meena**

(supra), simultaneous departmental proceedings can be initiated against the applicant. There is no denial to the fact that the rules warrant disciplinary proceedings in the given set of circumstances and, since the borrowing organization is not in a position to initiate disciplinary proceedings and it is within the domain of the parent organization only, therefore, in our considered view the order dated 17.03.2020 (Annexure-A12) repatriating the applicant's services to his parent organization cannot be termed to be an unjust order.

22. In **Union of India Vs. Ramakrishnan** AIR 2005 SC 4295 the Hon'ble Supreme Court ruled that ordinarily the term of deputation should not be curtailed except on just grounds. The observations made in paragraph 32 of the said judgment are reproduced here as under:

*“Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance.”*

23. In **K.H. Phadnis vs State of Maharashtra** AIR 1971 SC 998, a Constitution Bench of the Hon'ble Supreme Court had an occasion to examine the question as to whether an order issued by the Government of Bombay repatriating the services of the appellant therein from the temporary post of Controller of Foodgrains Department, Bombay to his parent



Department of Excise and Prohibition amounted to a reduction in rank in violation of the provisions contained in Article 311 of the Constitution. In the said case, the appellant had faced with certain charges of receiving money and gifts at the time of his daughter's marriage and he denied the allegations. The Secretary to Government had virtually threatened to repatriate him to his parent department. The Minister also visited his office and the police conducted an enquiry as he himself had asked for an enquiry. At the time of passing of the order of reversion, the appellant not only protested but also asked the Government to wait for completion of the investigation. The Government did not accede to that request. Subsequently, the investigation indicated that the appellant was totally free from blame or taint. The Hon'ble Supreme Court ruled in the said case that the order of reversion simpliciter will not amount to a reduction in rank or a punishment. A government servant holding a temporary post and having lien on substantive post can be sent back to his substantive post in ordinary routine administration or because of exigencies of service. Though the government has right to revert a government servant from the temporary post to a substantive post, the matter has to be viewed as one of substance and all the relevant factors are to be considered in ascertaining whether the order is a genuine one of "accident of service" in which a person sent from a substantive post to a temporary post has to go back to the parent organization without an aspersion against his character or integrity or whether the order amounts to a reduction in rank by way of punishment. Reversion by itself will not be a stigma. On the other hand, if there is

evidence that the order of reversion is not “a pure accident of service” but an order in the nature of punishment, in that eventuality Article 311 will be attracted. Considering the facts and circumstances of that case, the Hon’ble Supreme Court had arrived at a conclusion that the order of reversion was in the nature of punishment and, therefore, the same was not in compliance with the provisions of the Constitution.

24. While viewing the facts of the case in hand, we find that it is a case of a pure accident of service where the applicant has been found to be involved in a criminal case registered against him under Sections 376 and 506 of the Indian Penal Code and the borrowing organization, finding itself unable to initiate simultaneous disciplinary proceedings, opted to issue an order of repatriation of his services to his parent organization. By any stretch of imagination, the said order cannot be termed to be a stigmatic order.

25. In **R.P. Juyal** (supra), the Principal Bench of this Tribunal was examining the question as to whether a show cause notice must be given before a tenure deputation is terminated under the terms of an agreement which has been agreed to by the applicant. While examining the said question, this Tribunal posed the questions as to what will happen if the charges are denied ? Does the department undertake a proceeding and to what purpose ? After taking note of **Ratilal B. Soni and Others vs. State of Gujarat and others** 1990 (Supp) SCC 243, **Kunal Nanda vs. Union of India** AIR 2000 SC 2076, **Gurinder Pal Singh vs State of Punjab** 2005 (1) SLR 629 and **Sushovan Banarjee** (supra), this Tribunal arrived at a conclusion that in such a case, the rights of a deputationist will stand at par

with regular employee and the entire gamut of Article 311 will have to be undergone and it was further held that it would be in complete derogation of the judicially accepted legal maxim that a deputationist does not possess rights of continuance at par with those who hold a permanent lien therein.

26. The settled position in law relating to deputation and repatriation is that the deputation precedes repatriation. In service jurisprudence, deputation is resorted to in public interest to meet exigencies of public service. Deputation is a tripartite agreement based on voluntary consent of the principal employer to lend the service of his employee which decision has to be accepted by the borrowing organization and also involves consent of the employee concerned. Generally, the deputation is an assignment of an employee of one department/organization to another department/organization and it subsists so long as parties to tripartite agreement adhere to the same. The moment this tripartite agreement is disturbed or vitiated or repudiated, the employee would have no legally enforceable right to continue to complete the agreement period of his deputation. A Division Bench of the Hon'ble High Court of Punjab and Haryana in the matter of **Nirmal Singh and Others vs State of Punjab** (LPA No.3720 of 2018 (O&M) decided on 08.04.2019) while following the view taken in the matter of **Gurinder Pal Singh** (supra) has concluded that a deputation subsists so long as the parties to the tripartite arrangement do not abrogate it. If one of the parties repudiates the agreement, the other two have no legally enforceable right to insist upon continuance of the deputation. Almost a similar view has been taken by the Hon'ble High Court of Delhi in the matter

of **G.P. Roy vs Secretary, BIFR and Another** (WP (C) No. 8128/2009 decided on 29.05.2009) and it has been ruled therein that the deputation is a tripartite agreement between the deputationist, lending department and the borrowing department and the same cannot be extended unless all the three are agreeable to it.

27. Since in the case in hand the borrowing organization has retracted from tripartite agreement because of the peculiar facts and circumstances, therefore, we are of the considered view that the applicant has even no right to seek enforcement of the said agreement.

28. So far as the argument of the learned counsel for the applicant that no consultation had taken place with the parent organization before issuance of the impugned order dated 17.03.2020, is concerned; we do not find any substance in the said argument as well. A perusal of the record reveals that though the borrowing organization vide order dated 27.09.2016 stipulated the applicant's appointment on deputation on tenure basis for a period of 5 years, still the parent organization of the applicant agreed for his deputation for a period of 3 years only vide order dated 29.09.2016. After registration of FIR against the applicant under Sections 376 and 506 of the Indian Penal Code by Telangana Police, the applicant vide his letter dated 05.04.2019 requested his parent organization to permit him to continue on deputation for the 4<sup>th</sup> year on the same terms and conditions without even disclosing the fact that he is facing the charges under Sections 376 and 506 of the Indian Penal Code before a competent court of law at Hyderabad.

29. In the given set of facts and circumstances, when the rules warrant simultaneous disciplinary proceedings and the borrowing organization is not in a position to initiate those proceedings, being within the domain of the parent organization, in our considered view, if the parent organization has not been consulted by the borrowing organization, the same will not invalidate the impugned order dated 17.03.2020 vide which the applicant's services have been ordered to be repatriated to his parent organization.

30. Having due regard to the facts and circumstances of the case discussed herein above, it appears to us that the impugned order repatriating the applicant's services is simpliciter. Neither it can be termed to be punitive nor it can be termed to be stigmatic. There is no adverse comment made by the borrowing organization while repatriating the applicant's services to his parent organization that may touch upon his integrity and honesty. It is, at the most, an accident of service.

31. In the conspectus of discussions made herein above, we find that the Original Application is devoid of any merit and the same deserves to be dismissed.

32. Accordingly, the Original Application is hereby dismissed. However, there shall be no order as to costs.

**(RAKESH KUMAR GUPTA)**  
**MEMBER (A)**

**(SURESH KUMAR MONGA)**  
**MEMBER (J)**

/ksk/

**Annexures referred to by the applicant in OA No. 170/00242/2020**

Annexure A1 Copy of the Notification bearing Advt No. 1/2016  
Annexure A2 Copy of the Memorandum dated 27.09.2016  
Annexure A3 Copy of the relieving order dated 29.09.2016  
Annexure A4 Copy of the duty report dated 07.10.2016  
Annexure A5 Copy of the office order dated 30.09.2016  
Annexure A6 Copy of the order of suspension dated 07.09.2018  
Annexure A7 Copy of the order dated 10.10.2018  
Annexure A8 Copy of the interim order dated 12.11.2018 in OA No. 1758/2018  
Annexure A9 Copy of the interim order dated 11.12.2018  
Annexure A10 Copy of the order dated 22.01.2019  
Annexure A11 Copy of the awards issued to Institution and applicant  
Annexure A12 Copy of the order of repatriation dated 17.03.2020  
Annexure A13 Copy of the order in OA No. 387/2010 dated 08.09.2010

**Annexures referred in reply statement**

Annexure R1 Copy of the FIR No. 48/2018  
Annexure R2 Copy of the Rules and Bye-Laws of ICAR

**Annexures with application for producing Additional Documents**

Annexure A14 Copy of the FIR filed in Mahankali Police Station dated 19.03.2018  
Annexure A15 Copy of the representation dated 03.10.2018  
Annexure A16 Copy of the representation dated 05.04.2019  
Annexure A17 Copy of the mail dated 06.05.2019  
Annexure A18 Copy of the letter dated 19.06.2019

**Annexures with MA for production of Additional Documents**

Annexure R3 Copy of the ICAR Rules and Bye-Laws  
Annexure R4 Copy of the letter dated 27.09.2016  
Annexure R5 Copy of the letter dated 29.09.2016  
Annexure R6 Copy of the letter dated 07.09.2018

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