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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

Regn. No. OA 1500/1990

Date of Decision: 18.12.1992

Shri Kishori Lal

..Applicant

Vs.

Director General, ITEP & Others

...Respondents

For the Applicant.

...Shri D.R. Gupta,  
Shri O.P. Khokha,  
Counsel

For the Respondents

...Shri P.P. Khurana,  
Counsel for  
respondent No.1.  
None present for  
respondent No.2.  
Shri K.C. Mittal,  
Counsel for  
respondent No.3.

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman (J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. To be referred to the Reporters or not, No

**JUDGEMENT**

(of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice Chairman(J))

The short point for consideration is whether a deputationist has a right to continue on the deputation post and whether the borrowing department can repatriate him at any time to his parent department.

2. We have gone through the records of the case and have heard the learned counsel of both parties. The applicant is Senior Accountant in Central Pay and Accounts

Office, Civil Aviation Department. In 1987, the Directorate General, ITB Police under the Ministry of Home Affairs (Respondent No.1.) had invited applications through a Circular for filling up the post of Accountant in ITB Police on deputation basis. The period of deputation was to be three years subject to premature reversion on administrative grounds. The applicant fulfilled the eligibility criteria for such deputation and he was selected and appointed to the post of Accountant with effect from 22.03.1988 in the ITB Police. In the Office Order dated 6.4.1988 issued by Respondent No.1 it was stated that the period of deputation is one year in the first instance, which is extendable upto three years subject to premature reversion on administrative grounds.

3. On 13.1.1989 respondent No.1 asked the applicant for his willingness to continue on deputation for another year. On 20.01.1989, the applicant expressed his willingness to do so. Despite this, the respondents passed the impugned order dated 21.3.1989 whereby he was repatriated to his parent department, i.e., ITB Police.

4. Respondent No.3 (Commission for Scheduled Castes and Scheduled Tribes ) has filed a counter-affidavit

explaining the factual position so far as it concerns them. Despite adequate time given to the Union of India to file counter-affidavit they did not file the same and on 13.12.1991 the Tribunal passed an order forfeiting their right to file counter-affidavit. However, respondent No.1 filed counter-affidavit on 11.01.1991 with a copy to the applicant. The applicant has also filed rejoinder thereto. In the facts and circumstances of the case, we have taken the counter-affidavit of respondent No.1 and the rejoinder-affidavit on record.

5. The basic stand of the applicant is that Shri D.K.S. Rathore, Accounts Officer in the ITB Police (respondent No.2) was instrumental in curtailing his period of deputation as he was biased against persons belonging to SC/ST community. He has also contended that S.A.S. qualification was not essential as per the vacancy circular for the post of Accountant. After repatriating him respondent No.1 have appointed two persons as Accountants who are non-SAS Accountants. The representations made by the applicant to respondent No.3 did not yield any favourable response.

6. Respondent No.3 has stated in their counter-affidavit that they had impressed upon the authorities

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concerned that when the work and conduct of the applicant was satisfactory, his case should be reconsidered. They have further stated that they have no power to take action against respondent 2 for his alleged discriminatory attitude towards the persons belonging to the SC/ST community.

7. Respondent No.1 have stated in their counter-affidavit that the applicant has no legal right to claim extension of his deputation period. Apart from this they had also found that his performance during the initial period of one year was not upto the mark. They have vehemently denied the allegation that respondent No.2 was biased against the applicant on the ground that he belongs to the reserved category. They have stated that during the initial period of deputation of the applicant he had been working under Shri R. Nagar, Accounts Officer and Shri Balak Ram, Deputy Chief Accounts Officer who belong to SC community. His performance was watched by them for major part of his deputation period. Shri Balak Ram, Deputy Chief Accounts Officer had expressed the view that the performance of the applicant was not upto the mark. Respondent No.2 had not given any performance report on the applicant for considering his case for extension. His case for

extension was considered on the performance report given by Shri Balak Ram.

8. The legal position in this regard is well settled. A person who has been appointed on deputation basis can be reverted to his parent cadre at any time. In R.N. Misra Vs. Delhi Administration & Others, 1985(1) SLR 753, the Delhi High Court has observed that the deputationist has no indefeasible right to hold the deputation post even if it is for a fixed period of years. The Government was competent to terminate the appointment on finding that the performance of the deputationist was not satisfactory or that he was not suitable to hold the post (See also Shambu Nath Lal Srivastava Vs. ~~R.N.~~ State of U.P., 1984(2) SLJ 34; and Rati Lal B. Soni & Others Vs. State of Gujarat and Others, 1990(1) SCALE 228).

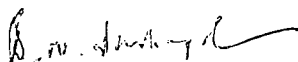
9. In the instant case, the applicant had finished his initial deputation period of one year and the borrowing department had taken an administrative decision not to extend his period of deputation. The allegations of mala fides brought against respondent No.2 have not been substantiated by the applicant.

10. In the light of the above, we see no merit

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in the present application and the same is dismissed.

There will be no order as to costs.



(B.N. DHOUNDIYAL)  
MEMBER (A)  
18.12.1992

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(P.K. KARTHA)  
VICE CHAIRMAN (J)  
18.12.1992