

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIAHABAD BENCH

Original Application No. 1473 of 1992

Prem Kumar Tripathi Applicant

Versus

Union of India and Ors Respondents

CORAM:

Hon. Mr. Justice U.C. Srivastava, V.C

Hon. Mr. K. Obayya, Member(A)

(By Hon. Mr. K. Obayya, Member(A))

The applicant who belongs to Indian Postal Service which service he joined in the year 1982 was promoted to Senior Time scale in the year 1986 and is presently working in the Junior Administrative Grade(3700-5000) w.e.f. 24.5.90. In response to the communication dated 24.10.91 from the department of Telecommunication seeking willingness of the officers for appointment for the post of Director Finance and Accounts in P & T Department the applicant gave his willingness. After considering his record he was selected to that post duly obtaining clearance from the Vigilance and other angles. The appointment was on deputation initially for a period of two years. The deputation was extendable for further periods. The applicant joined his new post as Director Finance and Accounts Kanpur Telecommunication District Kanpur on 28.2.92. The terms of deputation provided apart from basic salary deputation allowance. According

to the applicant he performed his duties to the best of his ability and there is no adverse comments on his work. The deputation was governed by terms and conditions contained in the memorandum of Government of India dated 4.5.62 as amended from time to time which provides that "normally when an employee appointed on deputation, his services are replaced at the disposal of the parent Ministry/ department at the end of tenure. However as and when the situation arises for premature reversion to the parent cadre of the deputationist his service could be so returned after giving reasonable notice to the lending Ministry/department of the employee. The grievance of the applicant is notwithstanding the above condition vide order dated 23.9.92, his deputation has been terminated and he has been reverted to his parent department with ~~immediate~~ effect. The impugned order is assailed on the ground that it is in violation of principles of Natural justice and that unilateral termination of deputation is malafide and prejudicially effected the petitioner and that he has been subjected to financial loss and that the order is arbitrary and malafide. It is also stated that the respondents are estopped from terminating the deputation and that no reasons have been furnished. The said order is also assailed on the ground that it is discriminatory as other candidates selected alongwith the ~~applicant~~ are still continuing while the applicant is being terminated and that action of the authority is ~~malafide~~ and the order

passed by an Authority lower than that of President is without jurisdiction and the nonest.

2. The respondents have opposed the case and it is pointed out that the term of deputation was cut-short, and the applicant is being reverted to his parent department with immediate effect in the Administrative exigency though the deputation was to last for two years. Rules provide that a deputationist can be repatriated before completion of the term. The applicant's case to terminate the deputation was taken with the consent of the highest Administrative level of the lending department. It is also stated that the deputationist has no right for remaining in the ~~borrowing~~ department. There is no need to give any notice before premature repatriation and the deputationist can always remain in the borrowing department at their pleasure. It is also pointed out that the terms of deputation and also termination are contained in the letter issued by Ministry of Finance dated 4.5.61 and amendment issued from time to time.

3. We have heard the learned counsel for the parties. The counsel for the applicant raised the plea that as the terms of deputation and appointment of the applicant was made by the President and Authority lower to the President cannot terminate the appointment. He also pointed out that the action was arbitrary since no notice was given to the applicant before termination of deputation. He also raised

the plea on discrimination as others selected alongwith the applicant were still retained and the applicant is single out. It is also stated that no reasons have been furnished as to why he has been repatriated prematurely.

4. The learned counsel for the respondents replied saying that the applicant was on deputation and that he is being repatriated to the parent department. This decision to repatriate him was taken duly observing the procedure and also consulting parent department. We have considered the various contentions raised in this regard. We are of the view that the applicant was only on deputation. So long as he is on deputation, no right vests to him for the post. Rules do provide for termination of deputation even before completion of the term and action taken to terminate in Administrative expediency is the overriding factor. The matter involved in this case is only repatriation to the parent department and it cannot be construed as a penalty, as to observe principles of natural justice or the disciplinary and appeal rules. There is no violation of the rules and procedure for repatriation of the applicant.

5. In these circumstances we do not see any ground has been made out for out interference. The application is without merit and accordingly it is dismissed with no order as to costs.

Rawlings
Member (A)

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Vice Chairman

Dated: 27th April 1993

(Uv)