

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.809 of 2019
M.A. No.910 of 2019

This the 12th Day of March, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

PIS No.136622 SA/EXE Vishal Singh, aged 38 years, Group-B
S/o Late Jai Prakash Singh,
Posted at SBT Branch, 'S' Group,
IB Headquarters, 35 Sardar Patel Marg,
New Delhi-110003.

....Applicant

(By Advocate : Shri H.S. Tiwari)

VERSUS

1. Department of Personnel and Training,
Through it's Secretary (Personnel)
Ministry of Personnel, Public Grievances and Pensions
North Block, New Delhi-110001.
2. Intelligence Bureau,
Through the Secretary,
Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi-110001.
3. Director General,
(Personnel Directorate Establishment Section)
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi-110003.

.....Respondents

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the applicant.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “(a) To quash/set aside the premature repatriation order dated 12.12.2018 thereby allowing the Applicant to complete his extended tenure on deputation which is to cease with effect from 01.11.2019 in terms of the policy dated 17.06.2010 and 17.02.2016 issued by the Respondent No.1.
- (b) Issue such other/direction as may be deemed appropriate in the facts and circumstances of the case.”

3. In this case, the grievance of the applicant is against the order dated 11.12.2018 vide which the applicant, who was on deputation in Intelligence Bureau (IB) from Central Reserve Police Force (CRPF), was given three months notice in terms of Para 9 of DoPT OM dated 17.6.2010 for repatriation to his parent department and on expiry of the said notice period, the applicant will stand repatriated to his parent department w.e.f. 12.3.2019 (A/N) with direction to report for duty to his parent department, i.e., CRPF.

4. Counsel for the applicant submitted that applicant on being selected for deputation to IB, New Delhi in the rank of SA/Exe in the Pay Bank of Rs.5200-20200 + Grade Pay Rs.2000/- for an initial period of three years vide order dated 29.9.2015 and the applicant was relieved for order dated 20.10.2015. Counsel further submitted that before completion of the aforesaid three years, the applicant gave his representation dated 12.2.2018 to respondent no.2 making a request to extend his deputation period for one year, which was strongly recommended by the concerned authority and

after obtaining consent from his parent department, the IB extended the deputation period for fourth year w.e.f. 2.11.2018 to 1.11.2019 vide order dated 26.7.2018. However, vide impugned order dated 12.12.2018 without assigning any reasons three months notice has been given to the applicant for repatriation to his parent department.

4.1 Counsel for the applicant submitted that the impugned order is contrary to the provisions contained in OM dated 5.1.1994, which was further amended on 17.6.2010 and 17.2.2016. Counsel further submitted that once the applicant's deputation was extended for fourth year, he cannot be repatriated without assigning any reasons and the applicant ought to have been allowed to complete his extended period of deputation. As such the repatriation order is bad in law and requires interference by this Tribunal.

5. Before advertng to the aforesaid contentions of the learned counsel for the applicant, this Court felt it appropriate to note the settled position in law relating to deputation and repatriation. Deputation precedes the repatriation. In service jurisprudence, deputation is resorted to in public interest to meet exigencies of public service. Deputation is a tripartite agreement as held by Honourable Supreme Court of India in ***State of Punjab Versus Inder Singh***, 1997 - 8- SCC- 372, based on voluntary consent of the principal employer to lend the service of his employee,

which decision has to be accepted by the borrowing Department/employer and also involves consent of the employee. Generally the deputation is the assignment of an employee of one Department/cadre to another Department/cadre and the deputation 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 agreed period of his deputation. The Honourable Supreme Court in ***Ratilal B. Soni & Others versus State of Gujarat & Others***, 1990 (Supp) SCC, 243, held that an employee on deputation can be reverted to his parent cadre at any time, who would have no right to be absorbed on the post of deputation. In ***Kunal Nanda versus Union of India & Another***, AIR 2000 SC 2076, the Honourable Supreme Court has reiterated its earlier decisions that the basic principle underlying deputation itself is that the person can always and at any time be repatriated to his parent Department to serve in his substantive position at the instance of either of the departments and there is no vested right in such a person to continue on deputation or get absorbed in the department to which he had gone on deputation. A Division Bench of Punjab & Haryana High Court in ***Gurinder Pal Singh versus State of Punjab***, 2005 (1) SLR 629, after taking into consideration

the decisions of the Apex court in ***Kunal Nanda case*** (supra), ***Ratilal B. Soni*** case (supra), and ***Rameshwer Parshad versus Managing Director, U.P. Rajkiya Nirman Nigam Limited***, 1999 (5) SLR 203 (SC), has held that a deputationist would have no vested right to continue in the borrowing department till the completion of the stipulated period of deputation and the deputation being a tripartite contract, can be continued only if all the parties like it to continue. Honourable Apex Court in the case of ***Kunal Nanda Vs. Union of India***, AIR-2000 SC 2076, decided on 24-4-2000 held as follows:

"6. On the legal submissions made also there are no merits whatsoever. It is well settled that unless the claim of the deputationist for permanent absorption in the department where he works on deputation is based upon any statutory Rule, Regulation or Order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation."

Honourable Apex Court in the case of ***Union of India Versus Ramakrishnan***, AIR 2005 SC 4295, also observed as follows:-

"32. Ordinarily, a deputationist has no legal right to continue in the post..... "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. But, even where the tenure is not specified, an order of reversion can be questioned when the same is mala fide. An action taken in a post haste manner also indicates malice. [See ***Bahadursinh Lakhubhai Gohil Vs. Jagdishbhai M. Kamalia and Others***, (2004) 2 SCC 65, para 25]"

6. In the light of the aforesaid legal position on the issue involved in this case, this Court observes that vide order dated 12.12.2018, the applicant was given three months notice in terms of Para 9 of DoPT OM dated 17.6.2010 for repatriation to his parent department, the said Para reads as under:-

“9. Premature reversion of deputationist to parent cadre.

Normally, when an employee is appointed on deputation/ foreign service, his services are placed at the disposal of the parent Ministry/Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/Department and the employee concerned.”

From the aforesaid provisions, it is crystal clear that for premature repatriation, there is no requirement for giving any reasons to the deputationist. As such the aforesaid contentions of the learned counsel are not sustainable in the eyes of law on the subject matter of this case.

7. In the result, and for the foregoing reasons, this Court does not find any merit in this case and the same is

accordingly dismissed at the admission stage itself. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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