



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 8311 OF 2025 (S-KSAT)

BETWEEN:

SMT. MAMATHA G C
AGED ABOUT 56 YEARS,
W/O VENKATAPPA,
M.SC., (NURSING), LECTURER,
BANGALORE MEDICAL COLLEGE & RESEARCH INSTITUTE,
COLLEGE OF NURSING, BANGALORE
R/O NO.70/1, 'A' TYPE, K.P.W.D. QUARTERS,
JEEVAN BHEEMANAGAR, NEW THIPPASANDRA POST,
BANGALORE-560 075.

...PETITIONER

(BY SRI. K SREEDHAR.,ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
MEDICAL EDUCATION DEPARTMENT,
MS BUILDING, 4TH GATE, 6TH FLOOR,
BANGALORE-560 001.
2. THE DEAN AND DIRECTOR,
BENGALURU MEDICAL COLLEGE & RESEARCH
INSTITUTE, KR ROAD, FORT,
BANGALORE-560 002.

...RESPONDENTS

(BY SRI.VIKAS ROJIPURA.,AGA FOR R1;
SRI.P S MALIPATIL., ADVOCATE FOR R2)

Digitally signed
by CHETAN B
C



Location: HIGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) SET ASIDE THE ORDER DATED 14.02.2025 IN APPLN NO. 4772/2024 VIDE ANNEXURE-A PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AND B) ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE IMPUGNED ORDER BEARING NO. MED207MMC2024 DATED 30.09.2024 VIDE ANNEXURE-A10 PASSED BY THE 1ST RESPONDENT IN SO FAR FOR PETITIONER IS CONCERNED AS THE SAME IS ILLEGAL AND CONTRARY TO RECOMMENDATION OF THE ENQUIRY COMMITTEE REPORT AND WITHOUT APPRECIATING THE FACTS OF THE CASE AND ETC.,

THIS WRIT PETITION, COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

ORAL ORDER

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

Petitioner, a Civil Servant belonging to the department of Health & Family Welfare, is grieving against the State Administrative Tribunal's order dated 14.2.2025, whereby, her Application No.4772/2024 along with others Application Nos.3539/2024 & 4746/2024 has been negatived. In the subject Applications, petitioner and other



two persons had called in question their repatriation to parent department.

2. Mr.K.Sreedhar, learned Senior Advocate appearing for the petitioner urged the following points seeking invalidation of impugned order:

2.1 Petitioner's case for absorption in the department in which she has been on deputation for long, is still pending and therefore, cutting short such deputation abruptly is vulnerable for challenge.

2.2. Deputation is ordinarily a tripartite arrangement involving three entities namely lending department, borrowing department and the employee concerned; therefore, in the absence of consent or requisition of the parent department, unilateral determination of deputation is not sustainable.

2.3 In the Bangalore Medical College and Research Institute, which runs the College of Nursing, there are no teaching hands at all and repatriation would put the



students to prejudice; this relevant aspect having not been kept in view, the decision to repatriate is flawsome.

2.4 Even otherwise, the Tribunal failed to notice that it is not a case of deputation at all inasmuch as the borrowing institution in which petitioner has been working is part of lending department itself.

3. Learned AGA appearing for the State and learned Senior Panel Counsel representing the institution vehemently oppose the petition making submission in justification of the impugned order and the reasons on which it has been constructed. They contend that no employee has right to continue on deputation beyond the normative period of five years in any circumstance; both the lending department and borrowing department have *ad idem* in repatriating the petitioner to her parent department; it is for the government to decide which employee should work where, the same being employer's prerogative to deploy its staff; government knows what arrangement should be made for running the teaching



work in the institution; petitioner's contention that both lending and borrowing departments are one and the same, is not true. Lastly, they submit that the Tribunal having considered all aspects of the matter has declined relief not only to the petitioner but other deputationists too and therefore, this court exercising a limited supervisory jurisdiction constitutionally vested in it under Article 227, should respect the decision of government as affirmed by the Tribunal.

4. Having heard the learned counsel for the parties and having perused the Petition Papers, we decline indulgence in the matter broadly agreeing with the submission of learned AGA and the Senior Panel Counsel because:

4.1 The first contention that petitioner's case for absorption in the borrowing department i.e., in the institution is pending, may be true. However, repatriation would not come in the way of the said case being decided on its intrinsic merits. It hardly needs to be stated that merely because a deputationist is repatriated, that *per se*



would not disentitle her/him to have the case considered for absorption, if the law otherwise permits. Much is not necessary to specify. Therefore, the argument of likely prejudice to the claim for absorption in a pending case is misconceived, to say the least.

4.2 The second contention that deputation is a tripartite arrangement as submitted by petitioner's counsel, is a well settled position in Service Jurisprudence. The extant rules & norms provide for deputation of an employee from one department to the other by the government, hardly needs to be discussed. Deputation was made vide order dated 25.7.2013 to work as Clinical Instructor and thereafter, she has been working as Lecturer four days a week. The Institution vide Note dated 3.7.2024 recommended for repatriation of deputationists including the petitioner. Accordingly, the borrowing department accepted the recommendation vide order dated 30.9.2024 and accordingly, directed repatriation. There is material on record from which it can be inferred that even the parent



department cottoned with the decision of repatriation. Therefore, this contention fails.

4.3 Learned AGA is right in telling us that no employee has a vested right to continue on deputation indefinitely and that in any circumstance, the rules do not permit deputation for a period beyond five years. After the expiry of five years of normative period, no deputationist can cling on to the post/position in the borrowing department. It is the prerogative of the employer, more particularly the government to decide which of its staff should be deployed where and how, of course, without affecting their service conditions. When repatriation is made after the expiry of five years, ordinarily, it does not give rise to a justiciable cause of action.

4.4 The vehement submission of learned counsel Mr.K.Sreedhar that even the institution itself has requisitioned extension of petitioner's deputation and therefore, she could not have been repatriated, is difficult to countenance. Accepting such a contention would be



prejudicial to due administration, which essentially belongs to the domain of Executive and courts cannot run a race of opinions with government of the day. This aspect is an inarticulate premise in the order of the Tribunal. Added, there is no substance in challenge to repatriation inasmuch as it is made in respect of not only petitioner but other deputationists, as well.

4.5 The next contention that if petitioner is repatriated, the interest of the students would be prejudiced, is too farfetched to gain acceptance. Government being the guardian of citizens under the doctrine of *parens patriae*, knows what arrangement should be made for the students. It is not that the students would be left to the lurch and the concerned quarters would not do their part of job in ensuring teaching facilities in the institution. In any circumstance, a deputationist cannot arrogate to herself the concern of borrowing institution as if only she knows and not the government.



4.6 The last contention of the petitioner that repatriation is tainted with *malafide* inasmuch as she along with other deputationists had exposed the ongoing delinquency in the institution, even if true, would be a feeble ground to invalidate the decision to repatriate. We again say that it is the prerogative of the government to depute an employee from one department to another and as a corollary of this, it is for the government to decide when to repatriate the deputationists. These are matters of routine administration that are better left to the wisdom of Executive, subject to all just exceptions. We make it clear that the subject repatriation shall not be construed as involving any stigma *qua* the petitioner.

In the above circumstances, this petition being devoid of merits, is liable to be and accordingly, dismissed, costs having been reluctantly made easy.

Any observations hereinabove made being confined to disposal of this petition shall not cast its shadow or light



on the petitioner's on-going case for absorption. All contentions of both the sides are kept open in that regard.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

DH/cbc
List No.: 1 Sl No.: 7