



2026:DHC:5761-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 11301/2018****MEENA SRIVASTAVA**

.....Petitioner

Through: Ms. Kamalakshi Singh Chauhan,
Ms. Divya Chauhan and Ms. Paraamba
Raghuvanshi, Advs.

versus

LIEUTENANT GOVERNOR & ORS.

....Respondents

Through: Ms. Archana Gaur, CGSC with
Ms. Ridhima Gaur and Mr. Deepu Kumar,
Advs. R-3 to 5**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE VINOD KUMAR****ORDER (ORAL)**

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10.07.2026**C. HARI SHANKAR, J.**

1. The petitioner was appointed as temporary Lower Division Clerk in the Union Territory of Andaman and Nicobar, on a basic pay of ₹ 260, on 25 January 1978. On 22 August 1984, she was appointed as *ad hoc* Trained Graduate Teacher¹ for three months. This *ad hoc* appointment was made temporary on 6 September 1988 with effect from 25 August 1986. In the interregnum, on 31 August 1987, she was appointed TGT in the Navodaya Vidyalaya Samiti, with the permission of the Union Territory Administration in Andaman and Nicobar on a scale of ₹ 1400-2600/-.

¹ "TGT", hereinafter



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2. On 14 January 1988, the petitioner was sent on deputation as TGT in the Navodaya Vidyalaya Samiti in Faizabad. She was relieved on 15 January 1988 in order to join her deputation post. The deputation was subject to retention of lien in the post of TGT in the Union Territory Administration in Andaman and Nicobar for two years with effect from 16 January 1988.

3. On 17 July 1991, the petitioner was repatriated to her parent department, i.e., the Union Territory of Andaman and Nicobar. She challenged the repatriation before the High Court of Allahabad by way of WP 494 (W)/1991. The following interim order was passed by the High Court of Allahabad in the said writ petition on 20 August 1991:

“Connect with writ petition No.4547 of 1991 and along with the said petition.

Till the next date of listing, the petitioner shall be allowed to continue in the Institute where she is present working and shall her join parent be required department. The opposite parties are directed to indicate as to whether the option given by the petition for absorption has been considered or not and if not, for what reasons it was though not to absorb the petitioner.”

(Emphasis supplied)

4. Subsequently, the aforesaid writ petition was transferred to the Allahabad Bench of the Central Administrative Tribunal², where it was registered as TA 3/2004. The Tribunal disposed of the TA on 9 January 2008 with the following brief order:

² “the Tribunal”, hereinafter



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“This T.A. stands disposed of with a direction to the respondents that in the event applicant confirms to the eligibility criteria at the time of appointment, her case shall be considered for permanent absorption within period of 2 months from the date of receipt of a copy of this order. No costs.”

5. It is acknowledged, in paragraph 14 of the impugned order passed by the Tribunal, that the interim order dated 20 August 1991 passed by the High Court of Allahabad continued to remain in force till disposal of the said writ petition by the Tribunal, on 9 January 2008.

6. In compliance with the afore-extracted order dated 9 January 2008 passed by the Allahabad Bench of the Tribunal, the petitioner's case was considered for absorption as TGT by the Absorption Committee of the Navodaya Vidyalaya Samiti, which did not find her suitable for absorption. She was, therefore, repatriated to the Union Territory of Andaman and Nicobar by order dated 25 November 2008.

7. The petitioner reported for work in the Union Territory Administration on 9 January 2009. However, the petitioner was not permitted to join duty, resulting in her having to make several representations. On a query being raised by the Ministry of Home Affairs³, as to why the petitioner was not being permitted to rejoin duty, the Directorate of Education⁴ in the Andaman and Nicobar Administration provided the following explanation by its letter dated 19 February 2014:

“Smt. Meena Srivastava, reported for duty in this Directorate on

³ “MHA”, hereinafter

⁴ “DOE”, hereinafter



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09.01.2009 (FN) but her duty report has not been accepted by this Directorate as it was found to be infirmity of rules. When Government servant abandons service to take up alternative employment to attend to personal affairs and does not bother to send any letter seeking permission for continued deputation or letter or permission for approaching the court for redressal of her grievance and the records do not show that she is treated as being in service, she cannot after two decades, represent that she should be taken back to duty. The Hon'ble High Court did not direct the parent department to accept the duty report in the event of her permanent absorption was not being considered by the NVS and NVS has no right to direct her to join her parent department after expiry of her permitted deputation and serving, the NVS for more than two decades which is impermissible under the existing rules provision and also no exemption was obtained from the Govt. of India for such extended deputation by JMV or Smt. Meena Srivastava either and there is no court order to accept her duty report.

Smt. Meena Srivastava, TGT writ petition No.4941/1991 in the Hon'ble High Court Lucknow Bench Lucknow challenging the order of repatriation issued from the NVS. The court granted Interim stay order dated 20.08.1991, petitioner whereby the Smt. Meena Srivastava, TGT was allowed to continue in the same and organisation respondents were directed that she shall be required to join at her parent department. The letter dated 28.06.2004 from the NVS reveals that the aforesaid interim stay order was existing and the case was pending in the Hon'ble High Court, Lucknow till 28.06.2004. However, consequent to her repatriation in 25.11.2008 after a gap of 20 years 10 months and 10 days she approached Directorate of Education to report for duty. Copy enclosed (Annexure-II & III).

Her (Personnel File maintained in this Directorate) was referred to the Administration for consideration. The matter was examined by personnel and legal section of Administration.

Finally as instructed by the then Chief Secretary on 31.05.2010, she was allowed to join this Directorate vide Memorandum No.4-3711/Estt./Edn/4040 dated 16.06.2010. Copy enclosed Annexure-XVI.

To regularize her joining time and the overstay for the extended period of deputation, the Administration has submitted the case to the Director (Estt.) Department of Personnel & Training, New Delhi vide Admn's letter No.5-1(31/2013-D-III dated 8.10.2013 Copy enclosed (Annexure-XVI).



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She has reported duty on 28.06.2010. As such, there is ground for taking action against any officials Smt. Meena Srivastava is to blame for such a situation as she showed no intention to return to the parent department.”

8. Ultimately, it was only after the Chief Secretary of the Union Territory of Andaman and Nicobar issued a direction on 31 May 2010 for permitting the petitioner to rejoin duty, that she was allowed to rejoin on 16 June 2010.

9. Following this, on 8 October 2013, the Union Territory Administration in Andaman and Nicobar wrote to the Department of Personnel and Training for regularisation of the period during which the petitioner had overstayed her deputation at the Navodaya Vidyalaya Samiti, Faizabad. The stand of the Union Territory Administration was – and is – that the lien of the petitioner in the Navodaya Vidyalaya Samiti, Faizabad was alive only for a period of two years with effect from 16 January 1988 and that, in any case, her lien could not continue beyond 17 July 1991, when she had been repatriated to her parent department. The Union Territory Administration adopted the stand that the entire period after 20 August 1991 till the petitioner reported back for duty in 2009 amounted to unauthorised absence, for which she was departmentally accountable.

10. Despite being permitted to join duty with effect from 11 August 2010, the petitioner was not paid her salary for the intervening period, except for a short spell, and was also denied her retiral benefits which were paid to her in part after a delay of 34 months. An amount of ₹ 94,479/- was also recovered from her.



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11. Aggrieved by these actions of the respondents, the petitioner approached the Principal Bench of the Tribunal by way of OA 2472/2017, praying that the communication dated 26 September 2016 addressed by the DOE to the MHA be quashed and set aside and that the petitioner be disbursed all her retiral benefits treating her as continuing in service during the period she remained in the Navodaya Vidyalaya Samiti, Faizabad as per the interim order passed by the High Court of Allahabad on 20 August 1991.

12. For ready reference, we deem it appropriate to reproduce the entire letter dated 26 September 2016, though question (iv) and the reply thereto have already been separately extracted earlier, thus:

“ANDAMAN AND NICOBAR ADMINISTRATION
DIRECTORATE OF EDUCATION

Fort Blair, dated the 26th September, 2016

To,

The Under Secretary to the Govt. of India
Ministry of Home Affairs
Grih Mantralaya,
New Delhi-110001

Sub: Regularization of overstay for the extended period of deputation in respect of Smt. Meena Srivastava, TGT (now Retd.1-Reg.) –

Sir,

I am directed to refer MHA's letter No.U-14023/3/2013-ANI received from Under Secretary to the Govt. of India, Ministry of Home Affairs, Grih Mantralaya, New Delhi, 12th February, 2016 on the subject cited above and to say that the reply for clarification/information sought by the Under Secretary on the following points are stated below:



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(i)	What actions were taken by them to see that its employee, Smt. Meena Srivastava, TGT (now Retd.) joins duty after 15.01.1991 (after completion of her deputation period)	Navodaya Vidyalaya Samiti has repatriated the services of Smt. Meena Srivastava, TGT to the parent department vide order dated 17.07.1991, but Smt. Meena Srivastava, TGT filed writ petition No.4941/1991 in the Hon'ble High Court, Lucknow Bench. Lucknow Challenging the order of repatriation issued from the NVS. The court granted interim stay order dated 20.08.1991, whereby the petitioner ant. Meena TGT Srivastava, allowed to continue in the same organization and respondents were directed that she shall not be required to join at her parent department. The letter dated 28.06.2004 from the NVS reveals that the aforesaid interim stay order was existing and the case was pending in the Hon'ble Court, Lucknow till 28.06.2004. Copy Annexure-I, II & III). enclosed With reference to NVS letter dated 28.04.1990 placed at Flag D this Directorate had informed vide letter dated 24th May 1990 addressed to Deputy Director: NVS Lucknow by stating that the deputation period in r/o Smt. Meena Srivastava, 767 hereby extended for further period one year w.e.f. 16.01.1990 to 15.01.1991 with the direction to make necessary arrangement to relieve dat. Meena Srivastava, before expiry of her above deputation period or she may be permanently absorbed as further extension of her deputation beyond 15.1.1991 is not permissible under the rules. Copy enclosed (Annexure-IV). Smt. Meena Srivastava continued to remain in JNV as per the order of Hon'ble High Court. However she was repatriated from to Directorate of Education A&N Administration after considering her case in view of Hon'ble CAT Lucknow Bench
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		Lucknow.
(ii)	On perusal of the order dated 20.08.1991 of the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench Lucknow in WP No.4941 (W) of 1991 S/S (Meena Srivastava Vs. Navodaya Vidyalaya Samiti Others), it is observed that the Hon'ble High Court has passed order that till the next date listing, the petitioner should be allowed to continue in the institute where she is presently working and shall not be required to join at her parent department. The respondents were also directed to indicate as to whether the option given by the petitioner for absorption has been considered or not and if not, for what reasons it was thought not to absorb the petitioner. However the borrowing authority after long period (17Yrs.) issued	In compliance to the judgement and order dated 09.01.2008 from the Tribunal, Lucknow Bench Lucknow, the case of Smt. Meena Srivastava, has been considered and it has been observed that her case of absorption/repatriation was placed before the Absorption Committee which did not approve, the absorption because the academic qualification of the teacher is M.A. M.Ed., but the percentage of marks obtained by her in Graduation is only 44.68 i.e. below criteria and as such is not eligible for absorption in NVS. The deputationists having 50% marks in Graduation and in particular subject were recommended for absorption by the Absorption Committee. Copy enclosed (Annexure-V). Finally, Smt. Meena Srivastava was repatriated by an order issued on 25.11.2008 after a gap of 20 years 10 months and 10 days. Copy enclosed (Annexure-VI). Vide DE's letter dated 24th May 1990 placed at Flag addressed to no, NVS Lucknow with reference to NVS letter dated 28.04.1990 placed at Flag 'D' stating that the deputation period in Smt. Meena Srivastava, TGT hereby extended for further period of one year w.e.f.16.01.1990 to 15.01.1991 with the direction to make necessary arrangement to relieve Sat. Meena Srivastava before expiry of her above deputation period or she may be permanently absorbed as further extension of her deputation beyond 15.01.1991 is not permissible under the rules. Copy enclosed (Annexure-VIII). The following correspondences were made with DOPT New Delhi for

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order dated 25.11.2008 rejecting her claim for absorption in the Navodaya Vidyalaya Samiti in compliance of another order dated 09.01.2008 of Hon'ble of CAT, Lucknow Bench Lucknow in TA 3/2004. It may kindly be explained whether any action was taken by the UT Administration to repatriation Smt. Meena Srivastava, as she was holding the post on deputation for considerably long period. In fact, a proposal for regularization of the extended period of deputation should have been initiated by the UT Administration. This may be sufficiently explained.	regularization of the extended period of deputation by UT Administration. 1. Director (Estt.) Department of personnel & training, New Delhi has requested vide Adan's letter dated No.3-15/2011-D-I dated 10 September, 2013 regarding regularization of overstay for the extended period of deputation. Copy enclosed [Annexure-VIII]. 2. Director (Estt.) Department of personnel & training, New Delhi was requested vide Adan's letter dated No.5-1(3)/2013-D-III dated 08.10.2013 regarding treatment the period spent for awaiting posting order as duty for all purposes in respect of Sat. Meena Srivastava. Copy enclosed (Annexure-IXI). 3. Director Estt.) Department of personnel & training, New Delhi M88 requested vide Admn's letter dated No.3-15/2011-D-III (PF) dated 23 December, 2013 regarding regularization of overstay for the extended period of deputation In respect Smt. Meena Srivastava. Copy enclosed (Annexure-X). 4. Joint Secretary (UT), NHA, Gol, New Delhi was requested vide Admn's letter No.3-15/2011-D-III (PF) dated 17 February, 2014 regarding regularization of overstay for the extended period of deputation in respect of Smt. Meena Srivastava in response to MHA's letter. No.0-14023/3/2013-ANL dated 26.12.2013. 5. Joint Secretary (UT), NHA Gol, New Delhi was requested vide Admn's letter No.3-15/2011-D-III (PF) dated April, 2014 regarding regularization of overstay 1 for the extended period of deputation in respect of Smt. Meens Srivastava in response to MHA's letter No.D-14023/3/2013-ANL dated 24.03.2014. Copy enclosed
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		(Annexure-XI). 6. Joint Secretary (UTI, MILA Gol, New Delhi was requested vide Admn's letter No.3-15/2011-D-III(PF) dated 20th May, 2014 regarding regularization of overstay for the extended period of deputation in respect of Smt. Meena Srivastava. Copy enclosed (Annexure-XII). 7. Joint Secretary (OT), MHA Gol, New Delhi was requested vide Admn's letter No.3-15/2011-D-III(PF) dated 09th September, 2014 regarding regularization of overstay for the extended period of deputation in respect of Sat. Meena Srivastava. Copy enclosed (Annexure-XIII).
(iii)	It is observed from the letter No.3-15/2011-D-III dated 10.09.2013 that the writ petition of Smt. Meena Srivastava, pending in the High Court, Lucknow transferred to the Hon'ble Lucknow CAT, as transferred appeal which was disposed of by the Hon'ble CAT dated 9.1.2008. A copy of the court order vide which the said writ petition of the petitioner transferred to CAT, Lucknow Bench may be provided to this Ministry.	A copy of the court order vide which the said writ petition of the petitioner was transferred to CAT, enclosed. Lucknow Copy Bench is enclosed (Annexure-XIV).
(iv)	The reply given	Smt. Meena Srivastava, reported for

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by the UT Administration vide their letter No.3-15/2011-D-III (PF) dated 19.02.2014 with regard to reasons for not permitting her join a duty at the time when she had submitted joining report on 09.01.2009 is not tenable as it is against the instant rule position on the subject. Is it is not a fit case for taking action against the official(s) responsible for the Lapse?	duty in this Directorate on 09.01.2009 (FN) but her duty report has not been accepted by this Directorate as it was found to be infirmity of rules. When Government servant abandons service to take up alternative employment to attend to personal affairs and does not bother to send any letter seeking permission for continued deputation or letter or permission for approaching the court for redressal of her grievance and the records do not shows that she is treated as being in service, she cannot after two decades, represents that she should be taken back to duty. The Hon'ble High Court did not direct the parent department to accept the duty report in the event of her permanent absorption was not being considered by the NVS and NVS has no right to direct her to join her parent department after expiry of her permitted deputation and serving, the NVS for more than two decades which is impermissible under the existing rules provision and also no exemption was obtained from the Govt. of India for such extended deputation by JMV or Smt. Meena Srivastava either and there is no court order to accept her duty report. Smt. Meena Srivastava, TGT writ petition No.4941/1991 in the Hon'ble High Court Lucknow Bench Lucknow challenging the order of repatriation issued from the NVS. The court granted Interim stay order dated 20.08.1991, petitioner whereby the Smt. Meena Srivastava, TGT was allowed to continue in the same and organisation respondents were directed that she shall be required to join at her parent department. The letter dated 28.06.2004 from the NVS reveals that the aforesaid interim stay order was existing and the case was pending in the Hon'ble
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		High Court, Lucknow till 28.06.2004. However, consequent to her repatriation in 25.11.2008 after a gap of 20 years 10 months and 10 days she approached Directorate of Education to report for duty. Copy enclosed (Annexure-II 6 111). Her (Personnel File maintained in this Directorate) was referred to the Administration for consideration. The matter was examined by personnel and legal section of Administration. Finally as instructed by the then Chief Secretary on 31.05.2010, she was allowed to join this Directorate vide Memorandum No.4-3711/Estt./Edn/4040 dated 16.06.2010. Copy enclosed Annexure-XVI. To regularize her joining time and the overstay for the extended period of deputation, the Administration has submitted the case to the Director (Estt.) Department of Personnel & Training, New Delhi vide Admn's letter No.5-1(31/2013-D-III dated 8.10.2013 Copy enclosed (Annexure-XVI). She has reported duty on 28.06.2010. As such, there is ground for taking action against any officials Smt. Meena Srivastava is to blame for such a situation as she showed no intention to return to the parent department.
(v)	The reasons given by the UT Administration for delay in forwarding her case for of regularization extended period of deputation to the DOPT/MHA is also not Had satisfactory. the	Smt. Meena was under lien upto 15.01.1991 after completion of her lien period she neither bothered to return back to parent department nor intimated the parent department about her intention of overstaying beyond the lien period. The available records reveal that she preferred to remain in NVS by challenging the repatriation order issued by NVS before Hon'ble High Court Lucknow.



	UT Administration pursued sincerely to get back relevant records with the borrowing authority, the same could have been received without wastage of such a long period which is one of the reasons stated to have been delay in submission of her case.	The UT sincerely was Administration requested to provide information regarding service book, leave account UTGEIS, No Dues Certificate for the deputation period. Schedule of GPF Subscription with to request furnish all the details and related documents vide 7-620/DEO/WG/14/996 dated 15.10.2014. Deputy Director, NVS was requested vide letter dated 01.05.2013 regarding settlement of pension in respect of Smt. Meena Srivastava, Retd. GTT and with the Principal, JNV, vide letter dated 07.03.2014. 17th July 2014, 22nd August, 2014, 15th Oct. 2014, 26th May 2015, and 09th July 2015 regarding settlement of pension in respect of Smt. Meena Srivastava, Retd. GTT. Copy enclosed. Her case was also referred -to MHA and MHA directed to deal her case as per the provision contained in OM No.6/8/2009-Estt. (Pay II), Gol, Ministry of personnel Public Grievances & Pensions, department of Personnel & Training, New Delhi dated 17th June, 2010 and OM No.6/8/2009-Estt. (Pay II) Gol, Ministry of Personnel Public Grievances & pensions, Department of Personnel & Training, New Delhi, dated 1st March 2011. Relevant portion of the OMs is reproduced below : 8. Tenure of Deputation / Foreign Services 8.1 The period of deputation/Foreign service shall be as per the Recruitment Rules of the ex-cadre post or case no tenure 3 years in regulations exist for the ex-
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		cadre post. 8.2. In case where the period of deputation/Foreign service prescribed in the recruitment rules of the ex-cadre post in 3 years or Administrative borrowing less, the Ministry/may organization grant extension upto the 4th year after obtaining orders of their Secretary(in the- Central Government) /Chief Secretary(in the State Government)/ equivalent officer(in respect of other. cases) and for the 5th year with the approval of the Ministry of the borrowing Ministry/Department and in respect of other organizations with the approval of the Minister of the borrowing Ministry/Department with which they are administratively concerned. The OM No.6/8/2009-1 Estt. (Pay II)-, GoI, Ministry of Personnel Public Grievances & Pensions, Department of Personnel & Training, New Delhi dated 1st March, 2011 reveals that: <u>Subject : Overstay while on deputation</u> Undersigned is directed to refer to this department OM of even number dated 17th June, 2010 and to say that as per existing instructions no extension in deputation beyond the 5th year is allowed. Further as per the O.M. No.14017/30/2006-Estt. (RR) Dated 29th November, 2006, The deputationist officer is deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended in the period of deputation, writing, prior to the date of its expiry. It is observed that despite these clear
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		instruction, proposals for regularization of overstay of officer on deputation beyond the five year period continue to be received in the Department. It is reiterated that it will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In the event of the officer overstaying for any reason whatsoever, he/she is liable to disciplinary action and other adverse Civil/Service consequences which would include the period of unauthorized overstay not being counted service for the purpose of pension and that any increment due during the period of unauthorized overstay being deferred with cumulative effect, till the date on which the officer re-joins his parent cadre. <u>Henceforth no ex-post facto approval for regularization of overstay on deputation would be allowed.</u> <u>In view of the provisions of the above referred 2 OMs, Smt. Meena Srivastava is not eligible for any kind of benefits on account of unauthorized overstay beyond the deputation period.</u>
(vi)	Status of the pensioner benefits / other dues given to Smt. Meena Srivastava, if any may also be intimated to this Ministry.	The GPF amount was paid and the pension was prepared and submitted to pay & accounts office, Port Blair, but the case was returned by PAO with certain observations i.e. (i) Reason for re-casting of 'service Book may be recorded in the Service Book under proper attestation of HOO. (ii) No entry regarding extension of lien or resigning from the post of GTT has been found recorded in the Service Book.



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		(iii). Service verification for the entire period. (iv). Leave account found incomplete and incorrect. Further it is also to state that Smt. Meena Srivastava, had not put in minimum amount of service required for consideration of pension / retiral benefits.
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With the above submission it is requested that MHA may advise for any course correction for settlement of pension case of Smt. Meena Srivastava.

Yours faithfully

Sd/-

Assistant Director (Admn.-I)”

13. By the impugned judgment dated 2 July 2018, the Tribunal has dismissed the petitioner’s OA. The reasoning of the Tribunal is contained in the following paragraphs from the impugned judgment:

“13. The facts not in dispute are that the applicant was sent on deputation to NVS vide order dated 14.01.1988. In the Order No. 74 dated 14.01.1988, it was made clear that her lien in the post of TGT will be kept in the parent department for a period of two years w.e.f. 16.01.1988 after which she was required to revert to the parent organization or to resign from there. On issuance of the repatriation order dated 17.07.1991, the applicant obtained a stay order from the Hon'ble High Court of Allahabad and continued to work with the borrowing organization at NVS Faizabad, UP till she was ordered to be repatriated vide order dated 25.11.2008, after her case for permanent absorption was rejected by the Absorption Committee.

14. Clearly, the over stay of the applicant, though covered by the stay of the Hon'ble High Court, was never regularized by the competent authority. The respondents have relied upon various OMS issued by DOP&T, GOI, which lay down the provisions of overstay of an Officer, while on deputation. The relevant portion of O.M. dated 17.06.2010 governing such situations is reproduced below :

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"(i) The period of deputation/foreign deputation/foreign service shall be as per the Recruitment Rules of the ex-cadre post or 3 years in case no tenure regulations exist for the ex-cadre post.

(ii) In case where the period of deputation/foreign service prescribed in the recruitment rules of the ex-cadre post is 3 years or less, the Administrative Ministry/borrowing organisation may grant extension upto the 4th year after obtaining orders of their Secretary (in the Central Government)/Chief Secretary (in the State Government)/ equivalent officer (in respect of other cases) and for the fifth year with the approval of the Minister of the borrowing Ministry/Department and in respect of other organisations with the approval of the Minister of the borrowing Ministry/Department with which they are administratively concerned."

Similarly, O.M. No. 6/8/2009-Estt. (Pay-II) of DOP&T dated 01.03.2011 also stipulates that :-

"Undersigned is directed to refer to this Departments OM of even number dated the 17th June, 2010 and to say that as per existing instructions no extension in deputation beyond the fifth year is allowed. Further, as per the OM No. 1401713012006-Estt (RR) dated the 29th November, 2006, the deputationist officer is deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. It is observed that despite these clear instructions, proposals for regularization of overstay of officers on deputation beyond the five year period continue to be received in the Department. It is reiterated that it will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In the event of the officer overstaying for any reason whatsoever, he/she is liable to disciplinary action and other adverse Civil/Service consequences which would include the period of unauthorised overstay not being counted for service for the purpose of pension and that any increment due during the period of unauthorized overstay being deferred with cumulative effect, till the date on which the officer rejoins his parent cadre."

There is also an advisory issued by DOP&T vide O.M. dated 16.05.2013 in respect of "Proper Monitoring of deputation by the

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lending departments", which lays down the tenure of deputation and other terms and conditions which the Government employees are mandated to follow. Para-8.2 deals with tenure of deputation, categorically stating that:-

"In case where the period of deputation/foreign service prescribed in the recruitment rules of the ex-cadre post is 3 years or less, the Administrative Ministry/borrowing organisation may grant extension upto the 4th year after obtaining orders of their Secretary (in the Central Government)/Chief Secretary(in the State Government) equivalent officer (in respect of other cases) and for the fifth year with the approval of the Minister of the borrowing Ministry/Department and in respect of other organisations with the approval of the Minister of the borrowing Ministry/Department with which they are administratively concerned."

In Para-8.3 of the same O.M. it is stated that:-

"8.3.1 The following Ministries/Departments/Organisations may extend the period of deputation upto the fifth year where absolutely necessary in public interest, subject to the following conditions:

(i) The extension would be subject to the prior approval of the lending organisation, the consent of the official concerned and wherever necessary, the approval of the UPSC/State Public Service Commission and Appointment Committee of Cabinet(ACC).

(ii) If the borrowing organisation wishes to retain an officer beyond the prescribed tenure, it shall initiate action for seeking concurrence of lending organisation, individual concerned etc. six months before the date of expiry of tenure.

In no case it should retain an official beyond the sanctioned term unless prior approval of the competent authority to grant further extension has been obtained.

(iii) No further extension beyond the fifth year shall be considered."

15. In the instant case, not just the applicant but even the borrowing and parent organisation have erred in not being vigilant in following the norms mandated to be followed in case of the applicant.



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16. Be that as it may, obviously the applicant was not keen on returning back to her parent department and reported back only when it became unavoidable to continue in terms of the repatriation order dated 25.11.2008. The respondents took up her case with DOP&T and Ministry of Home Affairs for regularization of her over stay of "extended period" from her parent organisation, which was rejected. Despite the clear instructions on the over stay of officers on deputation, the officer, over stayed and became liable for disciplinary action and other civil service consequences. As per the O.M. No. 14017/30/2006-Estt. (RR) dated 29.11.2006, the deputationist officer is deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. The respondents have also clarified that her service period in the department for the purpose of pension was not sufficient, since she did not have any relaxation for continuation of service in the borrowing organisation after a period of two years.

17. In my view, the respondents have already shown enough indulgence to the applicant and have made efforts to regularize her overstay by referring her case to MHA & DOP&T etc. The same has however been rejected due to clear instructions governing such cases of overstay. I also find that the facts of the citations relied upon by the applicant are different from the facts of the instant case and hence are not applicable here.

18. In view of the aforementioned discussions, I have no hesitation in concluding that benefits claimed by the applicant in the O.A. are totally devoid of merit and she is not entitled to any relief as claimed by her in the O.A. In view of the same, O.A. is dismissed. No costs.

14. Aggrieved by the aforesaid decision of the Tribunal, the petitioner is before us.

15. We have heard Ms. Kamlakshi Singh Chauhan, learned counsel for the petitioner and Ms. Archana Gaur, learned CGSC, for the respondents, at length.



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16. Ms. Chauhan submits that in as much as the petitioner was continuing in the Navodaya Vidyalaya Samiti, Faizabad, in terms of the order dated 20 August 1991 passed by the High Court of Allahabad, which remained in force till 9 January 2008 when the writ petition filed by the petitioner before the High Court, after it was transferred to the Tribunal, was disposed of by the Tribunal, it cannot be said that her stay was unauthorised or that she had continued on deputation beyond the *terminus ad quem* of the deputation period. She points out that, in fact, no order of repatriation was even passed in her case. In as much as she rendered service from 1978 to 2013, she cannot be denied her retiral benefits.

17. Ms. Gaur submits, by way of response, that the OMs issued by the DOPT in respect of overstay on deputation are clear and categorical. The lien of the petitioner expired at the end of two years from the date she was sent on deputation to Faizabad and in no case could deputation continue for more than five years from the date when it commenced. There is no way in which the petitioner can be treated as having been on deputation till 2008. In that view of the matter, she has voluntarily chosen not to report back at Andaman & Nicobar on the completion of her deputation period and to continue to work at Faizabad. This amounted to abandonment of service and taking up of alternate employment. The petitioner, therefore, remained absent without authorization after the expiry of her two years' lien period till the date when she rejoined duties with the Andaman and Nicobar Administration. The petitioner is not, therefore, according to Ms. Gaur, entitled to retiral benefits and the Tribunal has correctly appreciated the legal position.



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18. Having considered the submissions of learned counsel for both sides, we are unable to sustain the order of the Tribunal.

19. We do not deem it necessary to burden this judgment by referring to the various OMs cited by Ms. Gaur or relied upon by the UT Administration in Andaman and Nicobar as, to our mind, none of them are applicable.

20. The question is not of whether deputation can or cannot continue for more than two years or even for more than five years. The submissions of Ms. Gaur overlook the impact of the order dated 20 August 1991 passed by the Allahabad High Court, which admittedly remained in force till 9 January 2008. The words of this order are of great significance. The High Court of Allahabad allowed the petitioner to continue in the Institute where she was working and specifically stated that “she shall not be required to join at her parent department”. Thus, there was a positive permission granted to the petitioner to continue in the Navodaya Vidyalaya Samiti at Faizabad and, side by side, there was a positive proscription on the respondent requiring the petitioner to rejoin with the UT Administration in Andaman and Nicobar. No application was ever moved to alter, modify or vary this order, which was never challenged. It remained in force till 9 January 2008.

21. In such circumstances, we are flabbergasted at the stand of the UT Administration in Andaman and Nicobar that the petitioner was absent without authority from 17 July 1991 till she reported for duty in



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2009/2010. The submission is preposterous.

22. We express our undisguised displeasure at the stand reflected in the letter dated 26 September 2016 by the DOE of the Andaman and Nicobar Administration in response to query (iv) of the MHA. It is clear from a reading of the said reply that the author thereof had least concern for the orders passed by the Tribunal or by the Court and apparently regarded himself as a super-judicial authority. The intent to punish the petitioner, for having the temerity to approach the High Court and obtain an order of stay, is transparent from the said communication. It is a matter of great regret that such a stand has been taken by a Senior Officer in the UT Administration in Andaman and Nicobar.

23. Inasmuch as the petitioner had, even if she wanted to, no option to return to the UT Administration in Andaman and Nicobar in light of the order dated 20 August 1991 passed by the Allahabad High Court, the stand of the respondent is practically contemptuous of the said order. In the light of the said order, which remain unvaried till 2009 when the writ petition was disposed by the Tribunal after it was renumbered as a TA, no adverse consequences could visit the petitioner from having remained in the Navodaya Vidyalaya Samiti in Faizabad, till the passing of the final order by the Tribunal, the reconsideration of her case and her repatriation to the Andaman and Nicobar Administration.

24. The author of the letter dated 26 September 2016 appears to be oblivious of the position that a citizen cannot be penalized for acting



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in accordance with a court order.

25. There was, therefore, also no justification for the Andaman and Nicobar Administration not allowing the petitioner to rejoin duty after she reported back consequent to her repatriation. The act is plainly in the teeth of judicial orders passed in the petitioner's case and deserves to be deprecated. We do so.

26. The only ground on which Ms. Archana Gaur, learned Counsel for the respondents defends the withholding of the retiral benefits of the petitioner is that she overstayed her deputation in the Navodaya Vidyalaya Samiti.

27. Withholding of the retiral benefits of the petitioner on the ground that she overstayed deputation is, therefore, perilously in the teeth of the order passed by the High Court of Allahabad and may even tantamount to contempt thereof.

28. Clearly, therefore, the ground on which the petitioner's retiral benefits were withheld is unsustainable in law.

29. As such, we are of the view that the Tribunal erred in rejecting the petitioner's OA.

30. The writ petition is accordingly allowed.

31. We hold that the petitioner was entitled to be disbursed her retiral benefits consequent to her superannuation.



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32. Let the needful be paid to the petitioner, less any payments already made to her, within a period of six weeks from today, failing which the amount shall carry interest at the rate of 12% per annum till the date of actual payment.

33. Re-notify on 13 October 2026 for reporting compliance.

C. HARI SHANKAR, J

VINOD KUMAR, J

JULY 10, 2026/AR/aky/yg