

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.971 of 2017

- A.K. Singh S/o Late Shri Ram Prasad, Aged About 60 Years Presently Posted As Deputy Director Fisheries, Directorate Of Fisheries Indrawati Bhawan Naya Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Fisheries, Mahanadi Bhawan, New Raipur (Chhattisgarh)
2. Under Secretary, Department Of Fisheries Mahanadi Bhawan, New Raipur Chhattisgarh.
3. Director, Directorate Of Fisheries, New Raipur (Chhattisgarh)
4. Collector/ Chairman Fish Farmers Development Agency Durg Distt. Durg (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri A. V. Shridhar, Advocate
For Respondent/State	:	Shri Manish Nigam, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

12/07/2017

Heard.

2. By this petition, the petitioner is assailing legality, validity and correctness of the action of the respondents in instituting departmental enquiry on certain charges of misconduct.

3. The sole submission of learned counsel for the petitioner is that the petitioner is discharging duties on the post of Chief Executive Officer of Fish Farmers Development Agency (In short "FFDA") and his services have been treated as on deputation and therefore, it is only the agency, which can take

disciplinary action and not the government, which is the parent department of the petitioner.

4. On the other hand, learned State counsel opposed the submission made by learned counsel for the petitioner by contending that the petitioner continued to be in the parent department.

5. The petitioner is discharging his duties in the office of FFDA as Chief Executive Officer only in ex-officio capacity. There is no order on record to show that the petitioner was sent outside his cadre post of Deputy Director (Fisheries) for exclusively discharging his duties and function as Chief Executive Officer of FFDA, therefore, the ex-officio position of the petitioner cannot be said to be a case of deputation. Deputation means sending the petitioner from parent department to any other department.

6. The meaning and scope of deputation has been examined and explained by the Supreme Court in the case of ***State of Punjab and others vs. Inder Singh and Others, (1997) SCC 372***, wherein it is held:-

“18. The concept of “deputation” is well understood in service law and has a recognized meaning. “Deputation” has a different connotation in service law and the dictionary meaning of the word “deputation” is of no help. In simple words “deputation” means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law on deputation and repatriation is quite settled as we have also

seen in various judgments which we have referred to above. There is no escape for the respondents now to go back to their parent departments and working there as Constables or Head Constables as the case may be.

7. If the aforesaid principles are applied, the assignment of ex-officio position does not by itself amounts to deputation. The petitioner continues to hold the cadre post of Deputy Director (Fisheries) which is evident from Annexure R/1 filed by the respondents. Therefore, in these circumstances, challenge to institution of departmental enquiry must necessarily fail.

8. Learned counsel for the petitioner draws attention of this Court to Annexure AD/1 filed as additional document. The said document would not decide the legal status of the case of the petitioner. Some authority may have its own understanding by using the word 'deputation'. In view of consideration as above. I do not find that it is a case of deputation.

9. Accordingly, the petition is dismissed.

SD/-
(Manindra Mohan Shrivastava)
Judge