

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO.905 OF 2016

Sujat Majit

... Petitioner.

V/s.

The Union of India and Ors.

... Respondents.

Ms. Priyanka Mehndiratta for the Petitioner.

Mr. D.A. Dube a/w. Mr. Nirmeshkant Prajapati for Respondents 2 & and 3.

***CORAM : R.M. Borde and
V.M. Deshpande, JJ.***

DATE : 27 July, 2018.

P.C. :-

The Petitioner is objecting to the order passed by the Assistant Director on 20th November 2014 as well as the order dated 9th September 2014 directing repatriation of the Petitioner to his parent department i.e. CRPF with immediate effect with direction to report for duty to the Director General, CRPF, New Delhi. The Petitioner was taken on deputation by Intelligence Bureau in the year 2009. The Petitioner continued as deputationist until issuance

of the impugned order. The Petitioner claims that his juniors have been granted no objection by the parent department so as to facilitate their absorption in Intelligence Bureau. However, the parent department has refused to grant no objection in favour of the Petitioner. The Petitioner places reliance on the Policy Guidelines issued by the Ministry of Home Affairs on 17th January 2012 and in particular paragraphs 12 and 13 which read thus :-

“12. A CAPF personnel proposed to be absorbed by the borrowing Organization/Department should have a minimum of 18 years of service on the date, on which the absorption is proposed by the borrowing Organization/Department. Also, the person proposed to be absorbed should already be on deputation with the said Organization/Department. This condition of 18 years shall be read as 15 years in case of low medical category personnel.

13. A requisition made by borrowing Organization/Department or willingness tendered by a person for absorption, will not automatically confer any right on an individual or the borrowing department to claim absorption as a matter of right. The discretion to accept or reject, a request for absorption will be exclusively with the parent CAPF or the cadre controlling authority, i.e. Ministry of Home Affairs, as the case may be. In the case of Subordinate Officers and other Ranks, the proposal for absorption shall be decided by the Director General of the CAPF concerned.”

2. The above referred Policy Guidelines do not entitle the Petitioner to claim absorption with CRPF as a matter of right. In fact, it is recorded in paragraph 13 that the requisition made by borrowing organization/department or willingness tendered by a person for absorption will not automatically confer any right in individual or borrowing department to claim absorption and it will be within exclusive domain of parent department or controlling authority to accept or reject the request. In the instant case since the CRPF had not issued no objection, the Petitioner is not entitled to continue with Intelligence Bureau or to claim permanent absorption with Intelligence Bureau. The no objection recorded by I.B. or recommendation made by said borrowing department is inconsequential and does not confer any right in Petitioner.

3. Our attention is invited to the judgment of the Supreme Court in the matter of *Kunal Nanda v/s. Union of India & Anr.* decided on 24th April 2000 by the Apex Court, wherein it has been observed that the basic principle underlying deputation itself is that the concerned person 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 claim absorption in the department to which he had gone on deputation.

4. In view of the legal position as enumerated above, the claim of the Petitioner does not deserves to be considered. The Petition is dismissed accordingly.

(V.M. Deshpande, J.)

(R. M. Borde, J.)

Jyoti
Prakash
Pawar

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