

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 5785 of 2015 (O&M)

Date of decision: 09.08.2018

Major Singh

...Petitioner(s)

Versus

Bhakra Beas Management Board and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Harinder Sharma, Advocate for the petitioner(s).

Mr. Arun Nehra, Advocate for respondent Nos.1 to 3.

Ms. Kanica Sachdeva, AAG, Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, the petitioner seeks issuance of directions to respondent No.3 to send his service book and last pay certificate to respondent No.4, the Department of Irrigation Punjab which is his parent department.

Vide order dated 28.02.2014 passed by the Chief Engineer Canals, Irrigation Department who is the competent authority, recalled the petitioner to his parent department by giving him posting as Superintendent Grade-II at Jalandhar Drainage Circle, Jalandhar against the vacant post having fallen on retirement of one Jaswant Singh, Superintendent Grade-II on 28.02.2014.

The petitioner is aggrieved against the action of respondent No.3 whereby after the orders of deputation of the petitioner were

recalled by respondent No.4 and in pursuance of that order, the petitioner joined his parent department i.e. respondent No.4. Earlier, the petitioner was on deputation with respondent Nos.1 to 3 against vacant post and was posted with respondent No.3. An intimation was sent by the controlling officer in the office of respondent No.4 to respondent No.3 to send the service record of the petitioner but no response was received. Rather, an explanation was called from the petitioner through the controlling officer of the petitioner i.e. Superintending Engineer, Jalandhar Drainage Circle, Jalandhar that as to how the petitioner has been allowed to join duty despite the fact that he has not been relieved by Bhakra Beas Management Board (for short 'BBMB').

On behalf of the petitioner, it is asserted that since the parent department has allowed the petitioner to join, therefore, respondent-BBMB has no right to retain the service record of the petitioner without any justifiable reason.

On the other hand, learned counsel for the respondent Nos.1 to 3 states that the petitioner has joined the parent department without any intimation to his current department i.e. BBMB; without handing over the charge and without obtaining the relieving letter, therefore, he was treated to be absent from duty. The respondent-BBMB has called for the explanation of the petitioner, however, no reply has been given.

Heard, learned counsel for the parties and perused the record.

Undisputedly, the petitioner is a permanent employee of respondent No.4 and is working as Superintendent Grade-II. The

petitioner was sent to BBMB as per share quota of posts between three states i.e. Punjab, Haryana and Rajasthan on deputation and later on, he joined his parent department on the basis of order dated 28.02.2014, passed by Chief Engineer Canals, Irrigation Department without obtaining relieving order from the current department i.e BBMB, however, he has submitted his departure report to respondent No.2. Since, the parent department has allowed the petitioner to join his duties, therefore, BBMB has no right to retain the service book and last pay certificate of the petitioner.

This Court on 06.10.2016 had passed the following order:-

“Learned counsel for the respondent-State seeks time to address arguments as to whether for re-calling of the employee to the parent department, any intimation was required to be given to the department where he was sent on deputation, and in case, there is any lapse then what will be the consequences.

Let an affidavit to this effect be filed before the next date of hearing.

Adjourned to 09.12.2016.”

In pursuance of the order dated 06.10.2016, counter affidavit of Chief Engineer Vigilance, Irrigation Department, Punjab had been filed in the Court wherein it has been stated that the petitioner was transferred from Irrigation Department, Punjab to BBMB against Punjab share posts quota of 40% being a partner State in BBMB. The petitioner was not sent on deputation with BBMB authorities rather he was merely transferred to BBMB. The parent department is fully authorized to make transfer to BBMB against vacant post of Punjab share quota.

Keeping in view the above, the present petition is allowed.

Respondent No.3 is directed to send all the record pertaining to the petitioner to his parent department within a period of three months from the date of receipt of certified copy of the order.

Needless to mention that BBMB is free to take the issue of disciplinary action against the petitioner, if so desired through the State with regard to issue of the petitioner of leaving the BBMB without obtaining the relieving letter.

09.08.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No