

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 7750 OF 2019**

- Dr. S. Zaheeruddin, S/o Late Hazi Rahimuddin, aged about 59 years, presently posted as Chief Executive Officer, Chhattisgarh State Waqf Board, near Ghadi Chowk, Raipur, District Raipur (CG) **... Petitioner**

versus

1. State of Chhattisgarh, through Secretary, Scheduled Caste and Scheduled Tribes Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (CG)
2. Chhattisgarh State Waqf Board, through its Chairman, Sector 3, Devendra Nagar, Raipur (CG)
3. Dr. S.A. Farooqui, currently serving as Deputy Director, Veterinary Services, Department of Animal Husbandry and Development, Veterinary Services, Indravati Bhawan, Naya Raipur, Atal Nagar (CG)
4. Mohammed Salim Ashrafi, S/o Late Hafiz Abdul Gafur, aged about 28 years, R/o House No. 1013, Gafur Manzil, Rajbandha Marg, Maudhapara, Raipur (CG) **... Respondents**

For Petitioner	:	Mr. N.K. Shukla, Senior Advocate, assisted by Mr. Arjit Tiwari and Mr. Kshitij Sharma, Advocates.
For Respondent No.1	:	Mr. Chandresh Shrivastava, Dy. A.G.
For Respondent No.2	:	Mr. Prateek Sharma, Advocate.
For Respondent No.3	:	Ms. Hameeda Siddiqui and Mr. K. Rohan, Advocates.
For Respondent No.4	:	Mr. Surfaraj Khan, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/09/2019**

1. Challenge in the present writ petition is to the order dated 3.9.2019 (Annexure P-1) whereby the services of the petitioner, who was sent on deputation to the Chhattisgarh State Waqf Board, have been repatriated to his original department.
2. Learned Senior Counsel appearing for the petitioner assailing the said order submits that the order has been passed with malafide as there have been false complaints made against the petitioner in the past and there have also been a couple of litigations made in the past when the petitioner was working as Chief Executive Officer. Learned Senior Counsel refers to Annexures, P-3, P-4 & P-5 to the petition, which are the orders passed in three writ petitions which were disposed of by this High Court on 18.7.2019 whereby the State Government was given the power to take appropriate steps for giving an opportunity of hearing to the two authorities i.e. Chief Executive Officer and the Board.

3. This Court is of the opinion that so far as the law on deputation is concerned, it is by now well settled that for repatriating an employee on deputation, opportunity of hearing need not to be given. It is exclusively within the power of the lending department as also the borrowing department to either recall the employee sent on deputation or to ask the lending department to take back the services of the deputationist.

4. So far as the three orders referred to by the learned Senior Counsel appearing for the petitioner is concerned, if we look into the relief clause of these writ petitions the reliefs sought for therein were entirely different than the issue involved in the present writ petition.

5. In the present case, the issue involved is only repatriation of a deputationist to his parent department. The law in this regard is well settled that the High Court under Article 226 of the Constitution of India has got very limited scope of interference. It is exclusively within scope of the landing department as well as the parent department so far as deciding the tenure of posting of a deputationist is concerned. Recalling of a deputationist before the normal tenure of deputation cannot be brought within the ambit of order being stigmatic order. In the absence of any reason assigned for recalling of services of the petitioner/deputationist, the contention of the petitioner that it is a stigmatic order or it has been made on account of certain false complaints also cannot be sustained.

6. In **Kunal Nanda v. Union of India & Anr. [2000 (5) SCC 362]**, the Hon'ble Supreme Court held thus :

“6. ...The basic principle underlying deputation itself is that the person concerned 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 get absorbed in the department to which he had gone on deputation...”

7. The Hon'ble Supreme Court in **Union of India & Anr. v. V. Ramakrishanan & Ors. [2005 8 SCC 394]** held as follows :

“32. Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a

member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of reversion can be questioned when the same is mala fide. An action taken in a post haste manner also indicates malice.”

8. In Ratilal B. Soni & Ors. v. State of Gujarat & Ors. [AIR 1990 SC 1132],

it has been held by the Hon'ble Supreme Court that an employee on deputation can be repatriated to the parent cadre at any time as he does not have any right to continue on the deputation basis.

9. In this context, it is profitable to refer to a decision of the Hon'ble Supreme Court rendered in Umapati Choudhary v. State of Bihar & Anr. [1999 4 SCC 659] wherein their Lordships have observed thus :

“8. Deputation can be aptly described as an “ assignment' of an employee (commonly referred to as the deputationist) of one department or cadres or even an organisation (commonly referred to as the parent department or lending authority) to another department or cadre or organisation (commonly referred to as the borrowing authority). The necessity for sending on deputation arises in public interest to meet the exigencies of public service. The concept of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation...”

10. In view of above, this Court does not find it to be a strong case made out calling for an interference with the impugned order dated 3.9.2019 (Annexure P-1).

11. The writ petition thus fails and is accordingly dismissed.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE