

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Petition No.28310 of 2019

Date: 23.12.2019

Between:

P.V.R.Rajasekharam

..Petitioner

And

Union of India rep.by the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi
And two others

..Respondents

Counsel for the Petitioner : Sri K.R.K.V. Prasad

Counsel for the respondents : Sri N.Rajeshwar Rao,
Asst. Solicitor General

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the Order, dated 02.12.2019, passed in O.A.No.021/952/2019 by the Central Administrative Tribunal, Hyderabad Bench (hereinafter referred to as 'the Tribunal'), whereby the Tribunal has dismissed the O.A. filed by the petitioner, the present writ petition is filed by the petitioner

2. In short, the facts of the case are that the petitioner was originally holding the post of Under Secretary (Group A) in the Central Secretariat Service in the Department of Agriculture and Co-operation. Subsequently, he joined the post of Deputy Passport Officer in the office of the Regional Passport Office, Hyderabad, on deputation. Thereafter, he was appointed as the Regional Officer, Central Board of Film Certification (CBFC), Hyderabad, on deputation. He has been working on the said post from 02.09.2016 onwards. It is the case of the petitioner that though he was working without any complaint and discharging his functions as the Regional Officer, CBFC, Hyderabad, another person was appointed to the post of Regional Officer, CBFC, Hyderabad, vide Order, dated 20.12.2017. Challenging the same, he has filed O.A. No.21/1152 of 2017 before the Tribunal. Vide proceedings, dated 05.01.2018, the Tribunal granted an interim direction in favour of the petitioner. Thereafter, despite the said interim stay, the 2nd respondent sent an e-mail relieving the petitioner. Assailing the same, the petitioner filed another O.A.No.021/00041/2018 wherein the Tribunal granted interim orders on 10.01.2018 in favour of the petitioner. Therefore, he continued in the said post. Subsequently, vide Common Order, dated 10.08.2018, passed in

O.A.Nos.21/01152 of 2017 and 21/0041/2016, the Tribunal has set aside the impugned orders with a direction that the petitioner should be allowed to complete his deputation period. It is the further case of the petitioner that he will be completing five years of deputation, including the services rendered as Deputy Passport Officer in the Office of the Regional Passport Officer, by 27.10.2019 and as the said deputation is extendable by a further period of two years, he was under the legitimate expectation that he could be retained at the very place of deputation for another period of two years. Accordingly he has submitted a representation, dated 13.06.2019, through proper channel, requesting the authorities to extend the period of deputation for another period of two years. But, by virtue of order, dated 21.10.2019, the request of the petitioner was negated. Aggrieved by the said rejection order, petitioner has filed O.A. before the Tribunal, and the same was numbered as O.A.No.021/952/2019.

3. The Tribunal vide Order, dated 02.12.2019, dismissed the O.A. holding that the petitioner, who is on deputation from the parent department, has no vested right to remain in the present post. Thus, it is for the parent department to extend the said term based on the circumstances of each case. The Tribunal also held that it did not see any compelling reasons to set aside the order, dated 21.10.2019, rejecting the request of the petitioner to extend the period for another two years.

4. Heard Sri K.R.K.V.Prasad, the learned counsel for the petitioner, and Sri N.Rajeshwar Rao, the learned Assistant Solicitor General.

5. The law on deputation is clear. In view of the various judgments of the Hon'ble Supreme Court of India, as well as various High Courts including this High Court, it is no longer *res integra*. It is the settled proposition of law that a person, who is on deputation from the parent department to another department, will not have any vested right to stay in the place where he has been deputed. The parent department can recall the person who is on deputation even before completion of the period of deputation, depending on the exigencies and requirements of that department. An employee, who is deputed to a particular place, can neither claim any lien over the said posting, nor has any legal right to stay at the deputed post. The person who is deputed continues to be a member of the parent service; he can be recalled back to the parent department at any time. It is for the parent department to decide as to whether to extend the period of deputation or not.

6. In *UMAPATI CHOWDHARY v. STATE OF BIHAR*¹, the Hon'ble Supreme Court at paragraph No.8, held as under:

Deputation can be aptly described as an assignment of an employee (commonly referred to as the deputationist) of one department or cadre or even an organization (commonly referred to as the parent department or lending authority) to another department or cadre or organization (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 or not.

¹ (1999) 4 SCC 659

7. Further, in the decision reported in STATE OF PUNJAB AND OTHERS v.INDER SINGH AND OTHERS², the Hon'ble Supreme Court at para No.18 held as under:

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 earning 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.

8. The Tribunal while dealing with the petitioner's O.A.No.021/952/2019 has held at para 6 as under:-

There are instances of the deputation being continued beyond the initial term. It however depends upon the facts and circumstances of each case. The extension of the period of deputation depends upon the circumstances such as:

- a) the willingness of the borrowing department;*
- b) the readiness of the parent department to spare the services of the employee;*
- c) the inclination on the part of the employee; &*
- d) the nature and quality of the services rendered by the employee during the period of deputation.*

² (1997) 8 SCC 372

The Tribunal or Court cannot compel any of the three stakeholders namely, the borrowing department, the parent department or the employee, to act contrary to their interests or will.

9. In view of the law laid down by the Hon'ble Supreme Court in the above referred decisions, the reasons assigned by the Tribunal for dismissing the case of the petitioner are perfectly legal and justified. Therefore, the impugned order does not warrant any interference by this Court.

10. In the result, the Writ Petition is dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

23rd December, 2019
smr

