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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 754/2019 & CM No. 3281/2019**

HARNEK SINGH

..... Petitioner

Through: Mr. Ankur Chhibber, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Jayant Bhatt, Advocate with Ms.
Prachi Aggarwal, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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07.03.2019

1. The short point involved in the present case is whether the Petitioner is entitled to continue in his present posting on deputation as a Constable/Driver in the Directorate General (FS,CD & HG) in the Ministry of Home Affairs (MHA)?

2. The Petitioner who is employed with the Indo-Tibetan Border Police (ITBP) was initially sent on deputation to the DG (FS, CD & HG) for a period of three years i.e. from 8th July 2015. His deputation period ended on 7th July 2018. However, the borrowing Department i.e. the DG (FS,CD & HG) requested for extension of his deputation for a further period of two years thereby making the total deputation period as five years.

3. The ITBP, which is the parent/lending Department, gave its No Objection Certificate (NOC) for extension of the deputation with effect from 8th July 2018 to 7th July 2020 by a letter dated 1st August 2018.

4. Reasons given by the borrowing department were that there were only three drivers authorized on a deputation basis with it and that the Petitioner's services were needed for another two years. In its letter dated 15th November 2018 addressed to the MHA subsequent to the initial impugned order by the Respondent dated 5th November 2018, the borrowing department specifically pointed out that the "process takes minimum 6 to 12 months to get drivers from CPMF. Sometimes new driver failed to adjust with Delhi traffic." It is stated that the Petitioner was well conversant with the routine and the work of the department.

5. When the note was put up in the MHA, the request was declined by the Advisor (Pers-I) on the ground that the above reasons given were "too generic and sweeping". The impugned order dated 5th November 2018 of the MHA simply states that the "matter has been re-examined in this Ministry and Competent Authority has not accorded approval for extension of deputation tenure for 4th & 5th years in r/o HC/Dvr Harnek Singh of ITBP with Dte. Gen. FS, CD & HG. The person be repatriated forthwith." There is no other reason found in the file, produced before this Court, for rejecting the request. The subsequent order dated 27th December 2018 directs that the Petitioner be repatriated forthwith. This order was stayed by this Court on 4th February 2019.

6. Considering that under the extant policy, a person can be retained on deputation for a total period of seven years and extension is being sought only for the fourth and fifth years, the Court finds that there should have been more specific, justified reasons for refusing the request. On the other hand, the reasons put forth by the borrowing Department are reasonable and plausible. There appears to be no basis thereof for refusing the request. It may also be noticed that the ITBP, being the parent Department, has conveyed its no objection to the extension of the deputation of the Petitioner.

7. In that view of the matter, the orders dated 5th November 2018 and 27th December 2018 declining extension of the deputation of the Petitioner are hereby set aside.

8. It is directed that the deputation of the Petitioner will continue as requested by the borrowing Department and agreed by the lending Department up to 7th July 2020. The writ petition and pending application are disposed of in the above terms.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

MARCH 07, 2019

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