

\$~2

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

Date of Decision: 22.10.2019

+ **W.P.(C) 10510/2019**

DR. RAMESH CHAND

..... Petitioner

Through: **Mr. A.K. Chhabra, Adv.**

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through: **Mr. Aman S. Bakhshi, Adv.**

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL. No. 43391/2019 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 10510/2019

The present petition is directed against order dated 31.07.2019 by which the OA filed by the petitioner stands dismissed by the Tribunal. The petitioner is working as a Veterinary Surgeon in the Animal Husbandry and Dairying Department, State of Haryana. He proceeded on deputation to North DMC for a period of one year *w.e.f.* 27.03.2019. On 12.07.2019, the petitioner was repatriated to the parent department, which led to the filing of the OA.

2. Learned counsel for the petitioner submits that the order of the Tribunal is bad in law and suffers from various legal infirmities. He states that the Tribunal has failed to take into consideration that as per Office Memorandum dated 17.06.2010 issued by the DoP&T, more particularly Clause 9, the period of deputation is ordinarily one year. He submits that before the petitioner was sent on deputation, vigilance clearance was sought and there was nothing pending against the petitioner.

3. Learned counsel for the respondents submits that there is no infirmity in the order of the Tribunal and that the Tribunal has taken into consideration the submissions made by counsel for the respondents that after the petitioner joined the place of deputation, the respondent learned that the vigilance clearance obtained was not proper ; that several criminal cases were pending against him ; and based on the said record, it was deemed appropriate to repatriate the petitioner to his parent department.

4. We have heard learned counsel for the parties and considered their rival submissions.

5. It is not in dispute that ordinarily deputation is for one year and as far as possible an employee is allowed to complete his tenure.

6. However, para 9 of O.M. dated 17.06.2010 issued by the DoP & T reads as under :

“9. Premature reversion of deputationists to parent cadre.

Normally, when an employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/ Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationists, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/Department and the employee concerned.”

7. A careful reading of this O.M. would show that there is no rule that a person cannot be repatriated before expiry of the period of deputation. Premature reversion to the parent department is in fact contemplated in the OM.

8. In the present case, the reason for repatriation is the pendency of criminal cases against the petitioner, including one under Prevention of Corruption Act, in which he was later acquitted; however, we are informed that an FIR No.51/2018 is still pending under Section 306 IPC. Counsel for the petitioner explains that till

date the petitioner has not even been called to the police station nor any action has been taken against him. However in our view, since, by reason of his record, the petitioner does not enjoy the confidence of the respondents, we see no infirmity in the order passed by the Tribunal.

9. Accordingly, there is no ground to interfere by way of the present petition ; and the same is dismissed.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

OCTOBER 22, 2019/uj