

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.11616 of 2021
Date of Decision: 12.07.2021

DR. MAHESH CHANDRA

.... Petitioner

Versus

UNION OF INDIA AND OTHERS

.... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Rohit Seth, Advocate,
for the petitioner.

Mr. Ashish Rawal, Advocate,
for respondents No.1 and 6.

Mr. Parminder Singh Kanwar, Addl. Standing Counsel and
Mr. Rahul Gautam, Advocate, for respondents No.2 to 4.

KARAMJIT SINGH, J. (Oral)

The case has been taken up through Video Conferencing due to prevailing situation of COVID-19.

The petitioner has filed this writ petition seeking quashing of impugned order dated 31.05.2021 (Annexure P-5) passed by the Central Administrative Tribunal, Chandigarh Bench (in short the 'Tribunal'), whereby the interim prayer of the petitioner to stay the operation of orders dated 31.03.2021 and 01.04.2021 (Annexure P-42) collectively was declined.

The brief facts of the case are that the petitioner filed original application in the Tribunal against the order dated 28.06.2017 vide which he was deputed to work from Department of General Surgery to Department of Urology with a condition that the same will be till the time his services are

required or till regular incumbent joins on the said post. The petitioner filed miscellaneous application seeking interim relief against the said order. Subsequently, vide order dated 31.03.2021, consequent upon joining of regular incumbent, the petitioner was shifted back to his parent department i.e. Department of General Surgery with immediate effect from the Department of Urology vide order Annexure P-42. Accordingly, he was relieved from Department of Urology vide office order dated 01.04.2021. On this, the petitioner filed miscellaneous application with the Tribunal to stay the operation of aforesaid orders dated 31.03.2021 and 01.04.2021. Both the miscellaneous applications were contested by the respondents.

After hearing the counsel for the parties, the Tribunal dismissed the miscellaneous applications vide impugned order dated 31.05.2021. Aggrieved by the same, the present writ petition has been filed by the petitioner.

We have heard learned counsel for the petitioner as well as counsel for the contesting respondents who were having advance copy of the petition.

Learned counsel for the petitioner while assailing the impugned order, contended that the petitioner joined the Government Medical College & Hospital, Sector-32, Chandigarh (in short 'GMCH') on 03.06.2005 as Assistant Professor (General Surgery) through Union Public Service Commission (in short 'UPSC'). Thereafter, he was assigned duties in Urology Department, which at that time was functioning under General Surgery Department. Learned counsel for the petitioner further contended that the petitioner worked in Urology Department till April, 2021 except for the period when he was sponsored by GMCH Authorities for undertaking Super Speciality DNB(U)/

MCH course.

Learned counsel for the petitioner further submitted that the Department of Urology started working independently in June, 2017. On this, the petitioner was deputed to work in Department of Urology till the time regular incumbent joins or till his services were required. The petitioner challenged the said order by filing separate original application. Learned counsel further contended that on the joining of regular incumbent, the petitioner was ordered to be shifted back to Department of General Surgery vide order dated 31.03.2021 and consequently, he was relieved from the Department of Urology on 01.04.2021. The concerned orders are Annexure P-42 collectively. Learned counsel further contended that due to aforesaid shifting from Department of Urology to Department of General Surgery, the petitioner has suffered an irreparable loss. His entire experience in the Department of Urology has gone waste as the same will not be counted, when in future the case of the petitioner for further promotion in the Department of General Surgery would be considered. So prayer is made that the impugned order dated 31.05.2021 passed by the Tribunal be set aside and consequently, the operation of orders dated 31.03.2021 and 01.04.2021 be stayed.

On the other hand, learned counsel for the contesting respondents while supporting the impugned order of the Tribunal, contended that the Department of General Surgery is the parent department of the petitioner. The petitioner remained on deputation with the Department of Urology and finally he was repatriated to his parent department vide orders Annexure P-42 collectively. Counsel for the contesting respondents further contended that respondent No.3 passed specific order dated 28.06.2017 that the deputation of petitioner in Department of Urology was for the time his services are required

or till the regular incumbent joins. In 2021, the regular incumbent joined and accordingly, the petitioner was relieved and he joined his parent department. It is further contended that there is no illegality in the impugned order and this petition deserves to be dismissed.

We have considered the rival contentions raised by both the parties.

As per order dated 28.06.2017, it is clear that the petitioner was deputed to work in Department of Urology for the time his services were required or till the regular incumbent joins. He joined the Department of Urology on deputation on the aforesaid terms. Now upon joining of regular incumbent, he has been relieved as is clear from Annexure P-42 collectively. The petitioner has failed to prima facie demonstrate as to how he is immediately going to suffer irreparable loss on account of his repatriation to the parent department.

In the light of the above, we are not inclined to interfere in the matter. Consequently, the writ petition is dismissed. The main case is still pending in the Tribunal. We hope and trust that the Tribunal shall make endeavour to dispose of the same, expeditiously.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

12.07.2021
D.Bansal

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No