

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present:

**THE HON'BLE JUSTICE HARISH TANDON  
&  
THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)**

**W.P.C.T No. 67 of 2022**

**Achintya Bardhan  
Vs.  
Union of India & Ors.**

**Appearance:**

For the Petitioner : **Mr. Shyamal Sarkar, Adv.  
Mr. Bhaskar Mukherjee, Adv.**

For the Respondents : **Ms. Chandreyi Alam, Adv.**

Judgment On : **25.11.2022**

**Harish Tandon, J.**

The instant writ petition arises from the judgment and order dated 21.04.2022 passed in OA No. 1505 of 2021 by the Central Administrative Tribunal, Kolkata Branch, dismissing an application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985.

The petitioner was selected for the Post of the Constable in the service of the Central Industrial Security Force on July 15, 1994 subsequently he was selected for deputation to CCA (home) for the Post of Accountant, initially for a period of 1 year which was subsequently extended from time to time. He was subsequently released and/or repatriated on 16.7.2021 with the direction to report back to his parent cadre i.e., CISF. While on deputation the Controller General of Accounts, New Delhi (CGA) issued a Memo dated 14.8.2019 for permanent absorption of accountants and invited the willingness from the eligible persons. In response to the same, the petitioner applied for permanent absorption and both the CISF and MHA (Police-II division) issued "No Objection Certificate" for such absorption of the petitioner.

Pursuant to the same, the *curriculum vitae pro forma* in a prescribed format was sought for consideration on suitability and eligibility of the deputationist for the purpose of absorption, which in fact was forwarded. The Departmental Screening Committee was set up to assess the suitability and the eligibility of the persons and it is not in dispute that the petitioner was found unsuitable and/or ineligible for permanent absorption. The aforesaid rejection was made on the ground that no sanction was granted for extension of the deputation period after 5 years. While on deputation the performance of the petitioner does not appear to be outstanding as the merit is the criteria for absorption. Subsequently, by an order dated 16.7.2021 the petitioner has been repatriated to its parent department. Sensing that the petitioner was not granted extension of his tenure for 6 consecutive years,

the approach was made to the Tribunal which was disposed off on 02.08.2021 directing the respondent authority to consider the representation of the petitioner by passing a reasoned order within the specified time. The Tribunal further observed that the said respondents would take into consideration, the allegations made by the petitioner pertaining to 'No Objection Certificate' having issued to 14 persons who were placed on a similar pedestal. Pursuant to the said order, the authority took up the representation of the petitioner and rejected the same on various grounds including that the petitioner was not found suitable and/or eligible as his performance was not outstanding since last two years.

What can be visualized from the aforesaid facts that the rejection was not on a technical ground but also on a merit as the petitioner was not found suitable and did not meet the requirements set up for extending the benefit of permanent absorption of the deputationist.

The contention is raised by the petitioner before us that the moment 'No Objection Certificate' is granted by the parent department as well as the department where the petitioner was put as deputationist, there was no justification on the part of the authorities to reject the claim of the petitioner. It is somewhat settled that the absorption cannot be claimed as a matter of right nor the employee on the deputation is bestowed with any right to be absorbed on the such post. The persons are put on deputation subject to his concurrence or consent for better administration and may be repatriated at any point of time to his parent department.

The Apex Court in case of ***Kunal Nanda vs. Union of India, reported in (2000) 5 SCC 362*** held that the basic principles underlying the deputation is, that the person concerned can always and at any point of time be repatriated to his parent department to serve in his substantive post and there is no vested right in such person to continue for long on deputation or get absorbed in the department to which he had gone on deputation. Even though the Memo was issued for permanent absorption of the deputationist, only the right one can claim is to offer his candidature under that scheme but that itself does not confer any right to be absorbed. The speaking order dated 3<sup>rd</sup> September, 2021 revealed that the Departmental Screening Committee evaluated the candidature of 61 deputationists working against the post of the Accountant and found 41 deputationists ineligible for absorption either due to higher pay, age, non-completion of 2 years of service as on 31.7.2019, unwillingness, unavailability of NOC or unavailability of approval of deputation period. The petitioner falls within the category of the aforesaid 41 deputationists as the performance of the petitioner since last 2 years at the time of consideration of absorption by the departmental Committee was not outstanding. The moment the Departmental Screening Committee did not find the performance of the petitioner to be such which would place him at the higher pedestal of the other eligible candidates, such evaluation and/or ascertainment or suitability and eligibility based on merit cannot said to be irrational, unreasonable. Mere inclusion of the name in the select list does not confer any right on the deputationist for permanent absorption once the assessment is made on the satisfactory performance.

The assessment based on merit does not loathe any right into the candidate to be permanently absorbed despite the scheme having been floated in this regard. The issuance of the “No Objection” by the respective departments is for the purpose of bringing the petitioner within the zone of consideration but cannot be construed for the purpose of permanent absorption which is based on merit.

We, thus, do not find any merit in the writ petition.

The writ petition is, thus, dismissed.

No costs.

Urgent photostat certified copies of this judgment, if applied for, be made available to the parties subject to compliance with requisite formalities.

I agree.

**(Harish Tandon, J.)**

**(Shampa Dutt (Paul), J.)**