

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.5837 of 2015 (O&M)
Date of decision : 19.01.2023**

Kulwinder Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.G. Chaudhry, Advocate and
Ms. Sakshi Singh, Advocate
for the petitioners.

Mr. Charanpreet Singh, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

Present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing the impugned order dated 22nd of January, 2015 passed by respondent No.3 placed on record at Annexure P-4 and consequential order dated 17th of March, 2015 placed on record at Annexure P-5.

2. As per the pleadings raised in the writ petition, petitioners claim that they were initially appointed as Constable in Punjab Armed Police in the year 1990-91 and were sent on deputation to State Transport Department from where they were repatriated to their parent department on 12th of October, 2014/18th of October, 2014 respectively. Further vide order dated 10th of November, 2014, 11th of November, 2014 and that dated 12th of November, 2014, the petitioners were again sent to deputation with the CIT

Intelligence Wing, Punjab under the Rule 21.25 of the Punjab Police Rules. Even before they could complete their minimum period of deputation prescribed under Rule 21.25 i.e. 3 years, they were ordered to be repatriated vide impugned order dated 17th March, 2015 (Annexure P-5). The petitioners were granted interim protection vide order dated 30th of March, 2015 and the orders of repatriation placed on record at Annexures P-4 and P-5 were ordered to be kept in abeyance. It is not disputed that on strength of such interim protection, the petitioners have continued to be in their department of deputation.

3. Counsel for the petitioners relies upon the law laid down by Supreme Court in **State of Punjab vs. Inder Singh, 1998 AIR (SC) 7** to submit that the petitioners cannot be repatriated to the parent department and will have a right to continue therein.

4. I have heard counsel for the parties and have gone through records of the case.

5. In order to adjudicate the controversy in hand, it will be apt to pursue Rule 21.25 of the Punjab Police Rules which reads as under :-

“21.25 (1) Upper and lower subordinate posts other than those of inspectors in the Criminal Investigation Department shall be filled by the deputation of suitable men from districts for periods of three years extendible by not more than two years at a time at the discretion of the Deputy Inspector General, Criminal Investigation Department.

(2) A police officer on deputation to the Criminal Investigation

Department will retain his original position in the cadre of his district or range. While in the Criminal Investigation Department he will be eligible for officiating promotion in that branch; on reversion from the Criminal Investigation Department he will assume his place in his original cadre. Officiating promotion may be given in the district or range in the place of an officer deputed to the Criminal Investigation Department, such officiating post lapsing on the officer's reversion.

(3) When an officer borne on the rolls of a district or range reaches a place in seniority which would entitle him to be considered for substantive promotion if he were serving in the establishment to which he belongs permanently, he shall be informed and given the opportunity of returning to district police work. No officer on deputation to the Criminal Investigation Department shall be substantively promoted to head constable or higher rank unless both the Deputy Inspector-General of the range to which he belongs agree that he is qualified for such promotion by all the prescribed standards.

(4) The Deputy Inspector-General, Criminal investigation Department, may make recommendation on behalf of sub-inspectors serving under him to the Deputy Inspector General of the range and the Inspector-General of Police, respectively for promotion to the selecting grade or admission to List F. A sub-inspector who becomes eligible while serving in the Criminal Investigation Department for grade promotion in the selection grade, shall receive such promotion, if the Deputy Inspector General of the range and Criminal Investigation Department agree that he is fit for it.

(5) Annual reports on upper subordinates serving on deputation in the Criminal Investigation Department shall be sent by the Deputy inspector- General, Criminal Investigation

Department, to the range Deputy Inspector- General concerned for record and other necessary action.

(6) In very exceptional cases and for the political branch only and with the written sanction of the Deputy Inspector-General personally, direct enrolment as constable or in higher ranks, may be made to the Criminal Investigation Department. Specialists shall, however, when possible, be entertained on contract terms, so that their services may be dispensed with when their utility ceases or deteriorates.”

6. Thus, in view of the aforesaid bare provision of the statutory Rule, it can be axiomatically held that the minimum prescribed period of deputation is 'three years' which can be extended further at the discretion of Deputy Inspector-General, Criminal Investigation Department. So far as law laid down in the case of **State of Punjab vs. Inder Singh** (supra) is concerned, the issue therein was as to whether extension of deputation beyond five years is valid or not. It is in such situation that the Apex Court held that it cannot be said that the extension is limited to five years. Thus, the ratio of law laid therein cannot have any help to the petitioners in the present case. The employer in its discretion has opted not to extend the order of deputation. Admittedly, as per the bare provision, the petitioners had right to continue on deputation up to three years but not beyond that. Beyond that it is pure prerogative of the authority as prescribed under the Rules.

7. Consequently, nothing survives in the present writ petition and

the same is thus dismissed.

8. However, the concerned authority will be at liberty to abide by the impugned order or to decide afresh w.r.t. repatriation/deputation of the petitioners.

9. Pending application(s), if any, also stands disposed off.

January 19, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No