



W.P.No.6596 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.6596 of 2022

Ashish Kumar Khare

... Petitioner

Vs.

1.Union of India & Others,
represented by
The Director General,
Fishery Survey of India,
Plot No.2A, Unit No.12,
Sassoon Dock, Colaba,
Mumbai – 400 005.
Email: dg-fsi-mah@nic.in

2.The Zonal Director,
Fishery Survey of India,
Fishing Harbour Complex,
Royapuram, Chennai – 13.
Email: matsyasagar@yahoo.co.in

3.The Director (Engineering),
Fishery Survey of India,
Plot No.2A, Unit No.12,
Sassoon Dock, Colaba,
Mumbai – 400 005.
Email: dg-fsi-mah@nic.in

4.Senior Administrative Officer,
Fishery Survey of India,
Plot No.2A, Unit No.12,



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Sassoon Dock, Colaba,
Mumbai – 400 005.

Email: dg-fsi-mah@nic.in

5.The Secretary (OL),
Department of Official Language,
Ministry of Home Affairs,
NDCC – II Bhawan, “B” Wing,
3rd Floor, Jai Singh Road,
New Delhi 110001
Email: secy-ol@nic.in

6.Central Administrative Tribunal,
Represented by,
The Registrar,
High Court Campus,
Chennai - 600 104.
Email: ddocatmas.tn@nic.in

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari Mandamus to call for the records of the 6th respondent and quash the order dated 21.02.2022 in OA No.186 of 2021 as the same is unsustainable and allow the relief prayed in the OA No.186 of 2021.

For Petitioner	: Mr.Ashish Kumar Khare
	Party in person
For R1 to R5	: Mr.P.G.Santhosh Kumar
For R6	: Tribunal

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

Under assail is the order dated 21.02.2022, passed in O.A.No.186 of 2021, on the file of the Central Administrative Tribunal, Chennai Bench.



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2.The writ petitioner filed original application challenging the order of rejection rejecting his request to depute him to the post of Attache (Hindi & Culture) in the Indian Mission of abroad and at the second instance, to the post of Assistant Director (Official Language) in the Fishery Survey of India.

3.The writ petitioner is presently working as Junior Translation Officer (JTO) in Fishery Survey of India, Mumbai. He is working in the same post for 22 years without any promotion.

4.In response to the circular dated 14.02.2019 of the Ministry of External Affairs, the writ petitioner submitted an application for deputation to the post of Attache (Hindi & Culture) in the Indian Mission of abroad through proper channel to the first respondent. Since the application was rejected, once again, he filed second application for deputation to the post of Assistant Director (Official Language) in the same Ministry, in which, he is serving and the said request was also rejected. Thus, the writ petitioner filed original application before the Central Administrative Tribunal. The Tribunal considered the issues and dismissed the original application, which resulted in filing of the present writ petition.



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5.Mr.Ashish Kumar Khare appearing in person would articulate his case by stating that deputation is his indefeasible right to be treated fairly and equally as per the judgment of the Supreme Court in *Ashok Kumar Ratilal Patel Vs.Union of India & Ors., in Civil Appeal No.5225 of 2012, dated 16.07.2012.* Since the deputation is an indefeasible right and he is fully qualified to hold the post of Attache (Hindi & Culture) and also Assistant Director (Official Language), the respondents ought to have deputed him in either of the posts. Contrarily, both the request of the petitioner were rejected and therefore, he has chosen to file the present writ petition.

6.An application before the Tribunal can be maintained only if the applicant is an aggrieved person. Section 19 of the Administrative Tribunals Act, 1995, states about the applications to Tribunals. Sub section 1 contemplates that subject to other provisions of this Act, **a person aggrieved** by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to the Tribunal for the redressal of his grievance.

7.No doubt, the application submitted by the petitioner to the respondents was rejected. Mere rejection of an order would be insufficient to form an opinion, whether the petitioner is an aggrieved person or not?



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8.The grievances of the writ petitioner is that he is working as Junior Translator and stagnated in the said post for about 22 years. He submitted an application seeking deputation to the post of Attache (Hindi & Culture) at the first instance and thereafter, to the post of Assistant Director (Official Language).

9.Deputations are made due to administrative exigency and would not confer any service right to an employee. Deputation is not a promotion and ordinarily granted, whenever a need arises in the administration. It is the prerogative of the executive authority to depute an employee from one department to another department on need basis for a specific period. Deputation would not fall under the service conditions of an employee nor the petitioner is entitled to seek deputation as a matter of an absolute right.

10.In respect of the post of Junior Translating Officer, the petitioner is receiving salary, allowances and other benefits as admissible to the said post. Even in respect of stagnation, the Government of India is granting various monetary upgradation through ACP or MACP schemes. Employees stagnated in the same post for more than 10 years, 20 years and 30 years are granted monetary benefits under MACP Scheme.



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11. Even, promotion *per se* cannot be claimed as an absolute right by an employee. Consideration for promotion is a fundamental right of an employee.

Therefore, deputation or promotion is an administrative decision to be taken by the competent authority. Once such a decision is taken and list of employees are considered for deputation or promotion, then alone, the employees are to be treated equally and there should not be any discrimination.

12. With reference to the judgment of the Supreme Court referred by the petitioner in the case of *Ashok Kumar Ratilal Patel Vs. Union of India & Ors.*, in Civil Appeal No.5225 of 2012, dated 16.07.2012, the Apex Court made an observation that a person who applies for appointment on deputation, indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non suitability. Therefore, the facts of the case before the Supreme Court is incomparable. When an administrative decision has been taken to fill up a particular post on deputation and on receipt of number of applications from various employees, all the employees are to be treated equally and any unequal treatment or discrimination would alone provide a right for an aggrieved employee to approach the Tribunal and not otherwise.



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13. In the present case, the application submitted by the petitioner was not forwarded on the ground that the work of Hindi Translation cannot be entrusted to others. As stated above, deputation cannot be claimed as a right by the employee. The rejection of the request of the petitioner cannot be found to be invalid.

14. Thus, we do not find any infirmity in the order impugned and accordingly, the Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions, if any, are also closed.

[S.M.S., J.]

[M.J.R., J.]

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Index: Yes/No
Speaking/Non-speaking order
sli

To

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AND
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