

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

WPCT 94 of 2025

Vukkem Rambabu

Vs.

Union of India and Others

For the Petitioner-in-person : Mr. Vukkem Rambabu.

For the Union of India : Mr. Brajesh Jha,
Mr. Somnath Adhikary.

For the Respondent Nos. 2 & 3 : Mr. Sukanta Chakraborty,
Mr. S. Saha.

Judgment on : November 10, 2025

Madhuresh Prasad, J.:

1. The writ petitioner was the applicant before the Central Administrative Tribunal, (CAT for short) Kolkata Bench. His Original Application (OA) 29 of 2025 along with MA 70 of 2025 filed therein were dismissed by the CAT. The same is put to challenge in the present writ petition.
2. The brief narration of relevant facts is that the petitioner was a Senior Private Secretary in the Income Tax Appellate Tribunal at Visakhapatnam. He applied for the post of Principal Private Secretary (PPS) on deputation at Armed Forces Tribunal, Kolkata (hereinafter referred to as AFT), in response to a Circular issued by the Principal Registrar, AFT, New Delhi.

Upon conduct of skill test and interview, appointment letter dated 17.02.2022 was issued in favour of the petitioner.

3. The petitioner was not being relieved by his parent department and only after order passed by the Jabalpur Bench of the CAT in OA No. 493 of 2022, on 19.01.2024, the petitioner could finally be relieved. He thus joined the office of AFT, Kolkata on 16.04.2024, i.e. more than two years after issuance of his appointment order.
4. Within six months from his joining, the petitioner was served with a three months' (90 days') notice dated 03.10.2024 for repatriation to his parent department. The notice was issued by the Registrar AFT Kolkata Bench acting upon a communication of the AFT Principal Bench, dated 24.09.2024. The petitioner approached the Tribunal by filing OA No. 1513 of 2024 challenging the repatriation notice dated 03.10.2024, the same was disposed of in the following terms:

"3. However, during the course of hearing the applicant in person has submitted that he wants to withdraw the instant OA to file a detailed representation against the Premature Repatriation Notice dated 03.10.2024 (Annexure-A/9) before the appropriate authority.

4. The prayer is allowed.

5. Accordingly, the OA is disposed of as withdrawn with liberty to the applicant to make appropriate representation before the authority, if so desired."

5. The petitioner thereafter made a representation dated 04.11.2024. While the petitioner's representation was pending he was relieved by an order dated 02.01.2025 which according to the writ petitioner was served through e-mail. The petitioner thereafter filed another OA 29 of 2025 along with MA 70 of 2025, which was disposed of by the CAT Kolkata Bench vide judgment dated 25.03.2025, which is the subject matter of the present writ petition.

6. It is submitted by the petitioner in person that as per DOPT (OM) dated 17.06.2020, para 9 of which is relied upon by the Union of India, the petitioners tenure of deputation could not be curtailed, unless a situation arises for premature reversion to the parent cadre. Paragraph 9 of OM dated 17.06.2010 reads:

*"9. Premature reversion of deputationist 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 deputationist, 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." (emphasis ours)*

7. His next submission is that unsuitability or unsatisfactory performance are the only other two grounds based on which premature repatriation could have been resorted to. In the present case neither of these two grounds were made out. The petitioner's premature reversion, therefore, is unsustainable. In this connection he has referred to a decision of the Apex Court in the case of ***Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia And Ors.*** reported in ***(2004) 2 SCC 65***. He also relied upon decision of the Apex Court in the case of ***Parshotam Lal Dhingra vs. Union of India*** reported in ***AIR 1958 SC 36*** to submit when appointment is for specific period, the same cannot be curtailed unless a disciplinary proceeding is initiated. The decision to repatriate the petitioner was a hasty decision and thus also smacks of *mala fide*.
8. He further submitted that premature reversion was required to be preceded by compliance with the principles of natural justice. He lastly submitted that the Defence Minister was his appointing authority. Therefore, the petitioner could not be served with the three months'

notice for reversion to this parent department, without prior approval of the Defence Minister.

9. In so far as the submission that repatriation was impermissible, as a situation did not arise for premature repatriation, it is submitted by the learned Advocate for the respondents that there are a series of situations, starting from within a day after his joining on deputation at AFT, Kolkata, when the petitioner claimed TA advance. After having concluded the journey to AFT, Kolkata from his parent cadre place, the demand was made by the petitioner, knowing well that an advance was required to be availed prior to undertaking the journey, and not after conclusion of the journey.
10. The petitioner thereafter sent communications directly to the Chairperson of the AFT and was cautioned in this regard by the AFT Principal Bench letter dated 29.05.2024. He however, continued to make complaints/representations directly to the higher authorities in contravention of the instructions in this regard issued by the DOPT as well as guidelines dated 04.10.2022, issued by the AFT Principal Bench. Warning/advisory was issued twice by the Principal Bench. The petitioner, however, continued to show disregard to the official hierarchy and was relentless in his habit of filing complaints and representations to the higher authorities. The authorities therefore, complied with the requirement of issuing three months notice of repatriation as per OM dated 17.06.2010 issued by the Department of Personnel and Training, Government of India

11. The repatriation order dated 02.01.2025 was issued after lapse of the notice period. The petitioner's plea that the repatriation was without approval of the Ministry of Defence is factually incorrect. His repatriation has been done after due approval of the competent authority which is apparent from plain reading of the notice dated 03.10.2024. Prior to issuance of the repatriation order dated 02.01.2025, approval had been taken from Hon'ble Minister of Defence on 31.12.2024. the plea regarding repatriation without approval of the competent authority is therefore, unsustainable

12. It is lastly submitted by the learned Counsel for the respondent that the nature of right of a deputationist by now stands settled. The consistent view of the apex Court in this regard is that the deputationist has no right to continue on the deputation post and the deputationist is liable to be repatriated. The learned Advocate relied upon following two decisions of the apex Court in support of his submission:

1. Ratilal B. Soni & Ors v. State of Gujrat & Ors reported in 1990(Supp) SCC 243

2. Kunal Nanda v. Union of India & Anr. Reported in (2000) 5 SCC 362.

13. The CAT, after considering the stand of the parties found the premature repatriation of the petitioner to be in accordance with the DOPT OM dated 17.06.2010, taking note of the fact that the petitioner's repatriation was after obtaining the approval of the Defence Minister. The CAT also considered the facts and circumstances, including the above noted conduct of the petitioner at AFT, Kolkata. The CAT dismissed the OA 29 of 2025 along with MA 70 of 2025.

14. After considering the rival submissions we find substance in the submission made by the learned Advocate for the Union of India as regard unsuitability and unsatisfactory conduct of the petitioner is concerned. The CAT has taken note of repeated complaints and representations being filed by the petitioner against immediate superior being the Registrar of AFT, addressed directly to the Registrar of AFT, Principal Bench. He has also made representations to the Chairperson, Kolkata Bench. He was repeatedly issued warning/advisory by the Superior Authorities. It is apparent from the petitioner's conduct at AFT that one cannot find fault with the opinion of the authorities that he was "unsuitable" and that his conduct was "unsatisfactory".
15. The CAT also took into consideration the communication dated 03.01.2025 addressed to the petitioner, wherein the approval of the Minister of Defence, for petitioner's premature repatriation was communicated to the petitioner.
16. In so far as case made out by the petitioner that the Registrar-in-Charge was not processing his claim for TA advance due to extraneous considerations and that petitioner's repatriation was at the instance of the Registrar-in-Charge, we find that the Registrar-in-Charge has not been made a party respondent in personal capacity, either before the CAT or in the present proceedings. We therefore find no scope for the petitioner to make such personal allegations against the Registrar-in-Charge, behind his back. We also find that such allegations are belied by petitioner's affidavit in reply filed in the present proceedings wherein he made a specific statement that no complaint whatsoever was made against him. Such

statement made in paragraph 29 of the reply is sought to be corroborated by the writ petitioner by an information dated 17/06/2025 supplied to him in response to his query under the Right to information act, 2005. Therefore we are not inclined to accept the factually and legally unsustainable allegations made by the petitioner against the Registrar-in-Charge; or that his repatriation was stigmatic.

17. Petitioner also submitted that relieving order dated 02/01/2025 pursuant to repatriation order dated 02/01/2025 was issued at a time when the petitioner was on leave. He thus submits that the same is in violation of rule 255 of the General Financial rules, 2005. We find that a plain reading of the provision reveals that the same governs a transfer. The instant case is not a case of transfer, but a case of repatriation, which is covered by the DOPT OM Dated 17.06.2010. The repatriation is with approval of the competent authority, namely the Minister of Defence. The 90 days' notice, dated 03/10/2024 as well as the relieving order dated 02/01/2025, do not cast any stigma on the petitioner. The petitioner stands relieved pursuant to the same.

18. We further find that an issue arising for consideration before the Tribunal in the present case was his substantial claim for continuing on the deputation post. In this regard the law is well settled that the petitioner does not have such a right. Petitioner has not been able to show that the procedure for premature repatriation as contemplated in the DOP&T office memorandum dated 17/06/2010 has been violated. In fact, we find that the authorities have complied with the OM dated 17/06/2010, while repatriating the writ petitioner.

19. In view of the findings recorded hereinabove we find reliance placed by the petitioner on the decision in the case of ***Bahadursinh Lakhubhai Gohil*** (supra) to be misplaced. He has specifically relied upon paragraph 25 of the judgment, which in our opinion is inapplicable to the facts and circumstances of the present case. No case is made out regarding the petitioner's repatriation being done in *post haste* manner, so as to invite a presumption of the repatriation being tainted with *mala fide*. We have noted above the manner in which the repatriation has been done by issuing a three months' advance notice, in accordance with paragraph 9 of the OM dated 17.06.2010. We have also taken note of the fact that the repatriation was with approval of the competent authority namely the Minister of Defence, Government of India. The notice of repatriation and repatriation order are directing repatriation simplicitor, without recording any finding prejudicial to the petitioner; or which may in any way cast a stigma on the petitioner. We, therefore, find nor force in such submission

20. Insofar as the other judgment, ***Parshotam Lal Dhingra*** (supra) relied upon by the petitioner, we find that the same also has no application to the facts and circumstances of the present case. The petitioner has placed specific reliance on paragraph 12 of the said judgment, from bare reading of which it is obvious that the judgment concerns an appointment to a temporary post. It is in this context that the Apex Court observed that even an appointment for certain specified period gives the Government servant so appointed a right to hold the post for the entire period of the tenure, which cannot be curtailed or put to an end during the period, except by

way of punishment, dismissal or removal from service. The present case is not a case of tenure appointment. We are considering a case where petitioner was sent on deputation and the deputation is governed by the OM dated 17.06.2010 which provides for premature repatriation. The petitioner's repatriation has been done invoking the provisions contained therein. We, therefore, find that judgment of the Apex Court in the case of **Parshotam Lal Dhingra** (supra) also does not in any way come to the aid of the writ petitioner.

21. On the other hand, the respondent authorities have placed reliance on the case of **Kunal Nanda** (supra), which has stated the basic principle underlying deputation in paragraph 6 of the judgment, in the following terms:

"6. ... The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation. ..."

22. The other judgment relied upon by the respondents is judgment of the Apex Court in the case of **Ratilal B. Soni and Others vs. State of Gujarat and Others** reported in **1990 Supp SCC 243**. This judgment also lays down that employee being on deputation could be repatriated to their parent cadre at any time and that they do not get any right to be absorbed on the deputation post.

23. Considering the facts and legal position, the CAT's order dated 25/03/2025, passed in OA No. 29 of 2025 upholding the petitioner's

repatriation, and rejecting his OA, in our considered opinion does not warrant any interference by this court in exercise of its extraordinary and discretionary writ jurisdiction under article 226 of the Constitution of India.

24. In view of our consideration above we find no reason to interfere with the order of the CAT in OA 29 of 2025 along with MA 70 of 2025.

25. The Writ Petition is dismissed.

26. There will be no order as to costs.

27. Urgent Photostat certified copy of this Judgment, if applied for, be given to the parties on completion of usual formalities.

(Madhuresh Prasad, J.)

I agree.

(Supratim Bhattacharya, J.)