



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(229)

CWP No. 23856 of 2024

Date of Decision : 17.01.2025

Raja Singh

...Petitioner

Versus

Bhakra Beas Management Board and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Sudhanshu Makkar, Advocate for respondents No. 1 to 4.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that though the petitioner is employee of the Punjab Water Resources Department, Chandigarh, he was sent on deputation to the Bhakra Beas Management Board (hereinafter referred to as 'BBMB') and now by the impugned order dated 12.09.2024 (Annexure P-5), he has been repatriated to his parent department on the basis of complaint made by respondent No. 3 but without giving any opportunity of hearing to the petitioner and without conducting an enquiry.

2. Learned counsel for the petitioner submits that once, the petitioner was on deputation, he could not have been repatriated to his parent department, especially on the ground that there is a misconduct and that too without giving any opportunity of hearing to the petitioner, hence, the order



repatriating the petitioner from BBMB to respondent No. 5-department is arbitrary and illegal and the same is liable to be set-aside.

3. It may be noticed that in pursuance to the impugned order, the petitioner has already joined back with his parent department i.e. respondent No. 5 and is working as such.

4. Upon notice of motion, the respondents have filed the reply, wherein the respondents have stated that the petitioner was only on deputation with BBMB and he has been sent back by the BBMB to his parent department and as there is no right with the petitioner to continue on deputation with the BBMB, the petitioner cannot be allowed to say that the BBMB should be directed to allow the petitioner to continue on deputation.

5. Learned counsel for the respondents submits that even though, the petitioner is involved in a case for which the FIR has been registered against him but the petitioner has only been sent back to his parent department with the said information.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It is a conceded fact that the petitioner was only working on deputation with the BBMB and is not a regular employee of BBMB. As per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2895 of 2000 titled as ***Kunal Nanda Vs. Union of India and others***, decided on 24.04.2000, an employee cannot claim to continue on deputation and in case, the parent department orders repatriation, the employee concerned cannot object to the same. The relevant paragraph Nos.

5 and 6 of this judgment is as under :-



“5. Heard the learned counsel for the appellant and Shri R.N. Trivedi, learned Additional Solicitor General. The least said about the conduct of the appellant is better for him. The appellant, indisputably, is only a deputationist so far as CBI is concerned and his parent department is only CRPF and his substantive position and appointment is only in that department and ordinarily a deputation, as per governing rules, cannot last for a period more than five years. The frivolous claim that a person like him need not be a graduate for absorption and appointment in CBI. Apart, the appellant appears to have rendered himself unreliable by making, to put it in most mild terms, an incorrect representation of his basic education qualification to be a graduate while factually it is not so, and this one ground, strongly urged is enough to non-suit him. This itself will be sufficient to dis-entitle him to even continue in the CBI any longer. The Screening Committee which appears to have initially recommended for absorption also seem to have proceeded on the basis of the erroneous representation of the appellant of his basic educational qualification and the copy of the proceedings made available disclose this serious lapse and consequently no advantage can be claimed on the basis of the recommendation, made on a mistaken view of the facts more so, when such mistaken was the making of the appellant himself. This assertion of the respondent-CBI Department was specific and reiterated in unmistakable terms from the beginning before the Tribunal (vide para 4(h) and 5 of the reply) and thereafter before the High Court in the counter filed (vide para 3(e) and finally before this Court also (vide para 5(c) of the counter filed on behalf of the respondent). Throughout, the response of the appellant to those assertions at various stages was evasive and nebulous and neither direct nor specific in refutation of facts in particular. Being an appeal under Act 136 of the Constitution of



India, this Court will be justified in even rejecting this appeal, on this ground alone.

6. On the legal submission made also there are no merits whatsoever. It is well settled that unless the claim of the deputationist for permanent absorption in the department where he works on deputation is based upon any statutory Rule, Regulation or Order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. 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. The reference to the decision reported in Rameshwar Prasad v. M.D., U.P. Rajkiya Nirman Nigam Ltd. And others, 1999(8) SCC 381 is inappropriate since, the consideration therein was in the light of statutory rules for absorption and the scope of those rules. The claim that he need not be a graduate for absorption and being a service candidate, on completing service of 10 years he is exempt from the requirement of possession a degree need mention, only to be rejected. The stand of the respondent department that the absorption of a deputationist being one against the direct quota, the possession of basic educational qualification prescribed for direct recruitment i.e., a degree is a must and essential and that there could no comparison of the claim of such a person with one to be dealt with on promotion of a candidate who is already in service in that department is well merited and deserves to be sustained and we see no infirmity whatsoever in the said claim.”

8. Thereafter, by relying upon the judgment of **Kunal Nanda's case** (*supra*), the Division Bench in CWP No. 7545 of 2004 titled as **Gurinder Pal**



Singh and others Vs. State of Punjab and others, decided on 30.09.2004, has held that a deputationist has no enforceable right to continue on deputation. The relevant paragraphs No. 12 to 14 of the said judgment are as under :-

*“12. In service jurisprudence, "deputation" is described as an assignment of an employee of one department or cadre to another department or cadre. The necessity for sending on deputation arises in "public interest" to meet the exigencies of "public service". The concept of deputation is based upon consent and voluntary decision of the employer to lend the services of his employee, corresponding acceptance of such service by the borrowing employer and the consent of the employee to go on deputation. A deputation subsists so long as the parties to this tripartite arrangement do not abrogate it. However, if any one of the parties repudiate the agreement, the other two have no legally enforceable right to insist upon continuance of the deputation. Even in the cases where deputationists continue for a pretty long period and options for their "absorption" in the borrowing department were taken, yet their repatriation to the parent department was upheld by the Apex Court in **Rattilal B. Soni v. State of Gujarat, AIR 1990 Supreme Court 1132** after holding that "the appellants being on deputation, they could be repatriated to their parent cadre at any time and they do not get any right to be absorbed on the deputation post."*

"Deputation" per se being a contractually made ad hoc arrangement, seldom confers any right upon a deputationist, either for completion of the term of deputation or regularisation of such stop-gap arrangement. The judgments relied upon by the learned counsel for the College in this regard squarely answer the controversy.



13. *Learned counsel for the petitioner, however, has placed reliance upon a Full Bench judgment of this Court in **Dr. Bhagat Singh v. Vice Chancellor, Punjabi University, Patiala, 1981(2) SLR 329**, to contend that when a deputationist is sent with a prescribed term of deputation, the Government is not competent to curtail the fixed period of appointment. We, however, do not find any such general principle of law laid down by the Full Bench. That was a case of appointment of a Vice Chancellor of the University which was a statutory appointment with 3 years of tenure prescribed in the statute itself. The curtailment of statutory tenure by an executive order of the State Government was not approved by the Full Bench. Thus, the aforementioned judgment is totally distinguishable and is not attracted to the facts and circumstances of this case. We, accordingly, hold that the petitioners being deputationists have no legal and/or vested right to continue on deputation with the College even for the period stipulated in the orders taking them on deputation.*

14. *Coming to the contention of the learned counsel for the petitioners that they were taken on deputation under the orders passed by the Chairman of the Board of Governors whereas no such approval had been taken while repatriating them, therefore, the orders Annexures P-5 to P-7 lack competence. He further pointed out that the Chairman, in fact, had already got issued the order Annexure P-11, in their favour directing the College to allow them to continue on deputation. It is true that the petitioners, as mentioned in the orders Annexure P-1, P-3 and P-4, were taken on deputation under the directions of the Chairman of the Board of Governors. It is, however, not their case that their deputation was ever approved by the Board of Governors. It is also true that the orders repatriating them were issued by the Principal of the College after getting the same approved from the Principal Secretary, Technical*



Education and Industrial Training, Punjab only and no approval of the Chairman of the Board of Governors was obtained.”

9. In the present case, the petitioner has only been repatriated by BBMB to his parent department. The petitioner has no right to continue on deputation as the borrowing department has expressed inability to continue the petitioner with BBMB.

10. The grievance raised by the petitioner is that the petitioner should have been heard before repatriating him. It is only in case, there exists a right that an employee is to be given a personal hearing before passing an order contrary to the right which exists with the employee.

11. In the present case, as earlier held, the petitioner has no right to continue on deputation with BBMB, hence, the question of grant of hearing to him before passing an order of repatriation does not arise. As far as the reliance being placed by the learned counsel for the petitioner upon the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No. 4635 of 2006*** titled as ***Shekhar Ghosh Vs. Union of India and another***, decided on 01.11.2006, the facts of the said case are entirely different. In the said case, Shekhar Ghosh, who was initially on deputation, was absorbed in the department where he was sent on deputation. Though, the said absorption was recorded in the service book but no order was passed but thereafter, he was sent back to his parent department by treating him to be on deputation, which action was challenged. In the said case, Shekhar Ghosh was claiming that once he has been absorbed, he has right to continue in the absorbed department, which was adjudicated by the Hon'ble Supreme Court of India



that in case, an employee had a right to continue after absorption, he could not have been sent back and that too without giving him any opportunity of hearing.

12. The facts of the present case are entirely different as, the petitioner has never been absorbed in the BBMB and he remained on deputation, hence, the application of the judgment is wrongly being claimed in the facts and circumstances of the present case. Further, the petitioner has already joined back with the parent department and is working for the last about more than three months. That being so, no ground is made out for any interference by this Court in the present case.

13. With regard to the assertion that the BBMB has requested the parent department to take action, it may be noticed that jurisdiction to hold the disciplinary action against an employee exists with the parent department. BBMB has only requested the parent department qua the same. The discretion lies with the parent department to accept the same or reject and the Court has no role to play at this stage. In case, any disciplinary proceedings are initiated, the petitioner will be at liberty to avail appropriate remedy, in case any prejudice is caused to him in any manner.

14. Petition is dismissed.

January 17, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No