



2025:DHC:2647-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 01.04.2025
Pronounced on: 17.04.2025

+ LPA 191/2025 & CM APPL. 14715/2025
DR JWALA PRASADAppellant
Through: Mr.Anand Prakash and
Ms.Varsha Arya, Advs.

versus

UNION OF INDIA MINISTRY OF CULTURE AND
OTHERS.Respondents
Through: Mr.Harsh Kumar, SPC with
Mr.Shubham Goyal, GP for R-1
to 3.
Mr.Gyanendra Singh, Adv.for
R-4.
Mr.Mohinder J.S. Rupal,
Mr.Haradik Rupal and
Ms.Ashwarya Malhotra, Advs.
for R-5.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

NAVIN CHAWLA, J.

1. This appeal has been filed by the appellant under Section 10 of the Delhi High Courts Act, 1966, challenging the Order dated 04.03.2025 passed by the learned Single Judge of this Court in W.P.(C) 2741/2025 titled *Dr.Jwala Prasad v. Union of India*



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Ministry of Culture Through Its Secretary & Ors. in so far as the learned Single Judge did not grant an *ad-interim* protection to the appellant against his repatriation to his parent department, that is, the University of Delhi.

2. As a brief background, it is the case of the appellant that pursuant to an Advertisement published in the Employment News newspaper dated 31.12.2022 - 06.01.2023 by the Administrative Officer of the respondent no.2, which is an Autonomous Body under the Ministry of Culture, Government of India, for the post of Director, the appellant, who was working as Assistant Registrar with the University of Delhi, applied for the said post. The term of appointment was for a period of three years, extendable at the discretion of the Appointing Authority. The selection was through a screening process conducted by the Special Selection Committee.

3. The appellant, by a Letter dated 11.04.2023, was directed to appear for an interview for the abovementioned post before the Selection Committee.

4. Upon the appellant's selection, he received an Appointment Letter dated 19.05.2023, which reads as under:

*"To,
The Registrar,
University of Delhi,
Delhi-110007,*

Subject: Selection of Dr. Jwala Prasad, Assistant Registrar, University of Delhi, for the post of 'Director' in Gandhi Smriti & Darshan Samiti (an autonomous body of Govt. of India, Min. of Culture) on deputation basis-reg-



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(Ref: DU letter Ref. No. Estab.II (i)/002/2012/609/170 dated 30th January, 2023)

Madam/Sir,

Please refer to your above mentioned letter, regarding forwarding of the application of Dr Jwala Prasad, Assistant Registrar, University of Delhi, for the post of 'Director' in Gandhi Smriti & Darshan Samiti.

2. In this regard, Competent Authority i.e. Govt. of India has approved the appointment of Dr. Jwala Prasad, as 'Director' in GSDS, on deputation basis, initially for a period of 3 years. The period of deputation may be extended at the discretion of the Appointing Authority.

3, In view of the above, it is requested that Dr. Jwala Prasad may be relieved at the earliest, with a direction to report to this office for joining to the post of Director, GSDS."

5. The University of Delhi relieved the appellant for joining the above post on 25.05.2023, on which date the appellant also joined the abovementioned post.

6. The appellant claims that he received a Letter dated 03.05.2024 from the Vice-Chairman of the respondent no.2 directing the appellant to submit his response on various issues, to which he duly replied *vide* Letter dated 15.05.2024.

7. The appellant contends that the tenure of the Vice-Chairman of the respondent no.2 is co-terminus with that of the Committee of the respondent no.2, which came to an end on 01.09.2024.

8. The appellant contends that he received an e-mail dated 04.02.2025 from the Vice-Chairman of the respondent no.2, directing him to give access of the official email account of the Director of the respondent no.2 to Mr. Rajdeep Pathak with immediate effect in order



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for him to have day-to-day knowledge of the institution.

9. Thereafter, the appellant received the Impugned Letter dated 10.02.2025 from the Vice-Chairman of the respondent no.2, directing his repatriation to his parent department.

10. The appellant claims to have represented against the same to the Minister of Culture and Secretary, Ministry of Culture, as well as to the Joint Secretary and Member Secretary of the respondent no.2. In the meantime, the University of Delhi also insisted upon the appellant joining the post on repatriation.

11. Thereafter, by a Letter dated 01.03.2025, the charge of the post of Director of the respondent no.2 was assigned to the respondent no.3.

12. Aggrieved thereof, the appellant approached this Court by way of the abovementioned Writ Petition. The appellant also prayed for an *interim* relief against his repatriation, which, as noted hereinabove, was considered by the learned Single Judge, however, was not granted.

13. Aggrieved thereof, the appellant has now filed the above appeal.

14. The learned counsel for the appellant contends that the learned Single Judge has proceeded on an incorrect appreciation of the law inasmuch as he has failed to appreciate that the case of the appellant was one of 'appointment on deputation' and not 'transfer on deputation'. He submits that in terms of the Advertisement and the Appointment Letter, the appellant was appointed initially for a period



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of three years, which was further extendable at the discretion of the Appointing Authority. He submits that the pre-mature repatriation of the appellant, therefore, cannot be permitted but for sufficient cause being shown by the respondents. He submits that in the present case, the Impugned Order itself reflects that there was no cause assigned for the pre-mature repatriation of the appellant.

15. In support of his plea, he has placed reliance on the judgements of the *Supreme Court in P.Venugopal v. Union of India*, (2008) 8 SCR 1; *Dev Dutt v. Union of India & Ors.*, (2008) SCR 174; *Ashok Kumar Ratilal Patel v. Union of India & Anr.*, (2012) 6 SCR 545; *Union of India v. S.N.Maity & Anr.*, (2018) 1 SCR 580; of this Court in *Shri Raj Kumar v. National Human Rights Commission*, 2021:DHC:927; of the High Court of Allahabad in judgement dated 12.10.2020 in Writ-A-No.5744/2020 titled *Dr. Ransheel Kumar Upadhyay v. Union of India*; judgement dated 18.01.2024 in Writ-A-No.11172/2023 titled *Dinesh Kumar Singh v. State of U.P.* and of the Madras High Court in judgement dated 19.02.2025 in W.A.No.1190/2022 titled *Dr.Sasikantha Dash v. The Secretary to the Government & Ors.*

16. On the other hand, the learned counsel for the respondent nos.1 and 2, who appears on advance notice, at the outset submits that the present appeal is not maintainable inasmuch as the Impugned Order cannot be termed as a 'Judgment'. In support, he places reliance on the Judgment of this Court in *Shiv Prakash Katiyar v. Jawahar Lal University & Ors.*, 2024:DHC:8097-DB.



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17. He further submits that there were allegations of misconduct on the part of the appellant, which forced his pre-mature repatriation order to be passed. He submits that in such a scenario, Clause 51 of the Gandhi Smriti and Darshan Samiti Bye-Laws provides that the Officer shall be repatriated and the proceedings of inquiry shall be conducted by the 'Lending Authority'.

18. He submits that even otherwise, there is no embargo placed on an early/pre-mature repatriation of an employee on deputation, as held by the Division Bench of this Court in *Dayanand Kataria, IAS v. Union of India & Ors.*, 2015:DHC:8889-DB.

19. We have considered the submissions made by the learned counsels for the parties.

20. At the outset, we note that the Impugned Order has considered in some detail, the submissions made by the learned counsels for the parties at the time of admission of the Writ Petition and while issuing notice of the same, returnable on a relatively short date of 08.07.2025. The learned Single Judge refused to stay the appellant's repatriation, especially taking into account that the respondent no.3 had already taken charge as the Director of the respondent no.2.

21. The appellant has now admitted that post the passing of the Impugned Order, he has joined back his parent employer, that is, the University of Delhi, on 25.03.2025.

22. The submissions made by the learned counsels for the parties on the merits of the Impugned Order of repatriation would require a detailed consideration by the learned Single Judge upon receiving the



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counter affidavit from the respondents, explaining the reasons, if any, for the pre-mature repatriation of the appellant.

23. While in law, the submission of the learned counsel for the appellant that there is a distinction between ‘appointment on deputation’ *vis-a-vis* ‘transfer on deputation’ and in a case of ‘appointment on deputation’, the pre-mature repatriation of the employee cannot be done in an arbitrary or capricious manner, cannot be disputed, however, whether on facts of the present case the repatriation of the appellant can be termed as arbitrary or capricious, can only be determined after the counter affidavit has been received from the respondents.

24. At the present stage, with the appellant having already joined his parent department on repatriation, we do not find that the appellant has made out a case for restoration of *status quo ante*, for which a very heavy burden lies on the party claiming such relief. In case the appellant is to succeed in the Writ Petition, the learned Single Judge can grant him relief of restitution, or such other relief(s) as may be found just and fair in the facts and circumstances as presented before the learned Single Judge.

25. We, therefore, do not deem it to be a fit case for interfering with the Impugned Order at this stage.

26. We, however, direct the respondents to adhere to the timeline granted by the learned Single Judge for completion of the pleadings, and request the learned Single Judge to not grant any unwarranted adjournments and to expeditiously decide the Writ Petition.



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27. The appeal, along with the pending application, is disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 17, 2025/sg/SJ

Click here to check corrigendum, if any