
(2000) 12 PAT CK 0050
In the Patna High Court
Case No : C.W.J.C. No. 5143 of 1999

Anjali Majee

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-12-2000

Acts Referred:

Navodaya Vidyalaya Samiti Recruitment (Revised) Rules, 1995 — Rule 2

Citation : (2001) 1 PLJR 488

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : Rajendra Prasad Singh and Arvind Kumar Singh, for the Appellant;
Ajay Kumar Tripathi, for the Respondent

Judgement

1. This writ petition challenges the order of the Central Administrative Tribunal in the matter of one Anjali Majee in a petition registered as O.A. No. 278 of 1999. The order of the Tribunal is dated 18.5.1999. The order of the Tribunal is, to the effect, that regard being had to the circumstances that Mrs. Anjali Majee was only on deputation, the fact that the period of deputation has come to close, she must be repatriated to her parent department and, in the circumstances, there has been no injustice in the action of the management of the Navodaya Vidyalaya Samiti in sending her back at the close of her period of deputation and the aspect of her right to be permanently absorbed in Navodaya Vidyalaya Samiti on the post of Principal is misconceived.

2. On behalf of the Petitioner, Mrs. Anjali Majee, it has been submitted that if (sic) her parent department. It is contended that this is not the aspect in totality in so far as her case is concerned.

3. The attention of the Court has been drawn to Navodaya Vidyalaya Samiti Recruitment (Revised) Rules, 1995, particularly to Rule 2(iii). As this aspect is relevant, this rule is reproduced here-in-below:

2. (iii) Persons who have joined on deputation to various posts in the Samiti one

year before the date of notification of these Rules, shall be given one opportunity of consideration for permanent absorption in their respective post after notification of these Rules, against direct recruitment vacancies unless otherwise specified in the Schedule hereto. Such of the deputationists who are not recommended for absorption shall continue in the same capacity till completion of their deputation period subject to administrative exigencies. Thereafter any deputationist seeking permanent, employment in the Samiti will have to apply for direct recruitment as per prescribed rules.

4. Then, it has been contended that as a person on deputation she was entitled to be considered for absorption as the rule gives her this opportunity. It is, thus, she contends her entire record had not been taken into account. To substantiate this contention the Court's attention was drawn to the record that in the counter affidavit the Respondents admitted that the records for the year 1995-1996, 1996-97 and at best for the year 1997 had been seen. In this context it is contended that the Respondents themselves were seeking enquiries on the reports about the performance of the Petitioner and that this enquiry was not without cause. The purpose of the enquiry was to (sic) sorption. On this reference has been made to the Circular of 14.2.1997 from the Deputy Director (Personal) to the Deputy Director, Navodaya Vidyalaya Samiti, All Regions for the purpose of showing to the Court that it was a policy of Navodaya Vidyalaya Samiti that regard being had to persons on deputation their permanent absorption, upon suitability, was one of the policies. The contention is that this is not a simple matter of deputation coming to an end and the incumbent reverting to the parent department. Consequently, it is contended that enquiries were made by the Deputy Commissioner in the communication addressed to the Director, SE.PRA. EVAM VAYASK SHIKSHA VIBHAG, Bihar, Patna seeking information about the Petitioner's performance. Then there is a communication from the Deputy Commissioner, Sahebganj to the Director, Navodaya Vidyalaya Samiti, New Delhi. This is dated 1.5.1999 about the performance of the Petitioner. On this basis it is contended that this was a record beyond the year 1995-96, 1996-97 and the year 1997. The contention is that the record beyond the year 1997 had not been taken into account.

5. Upon hearing learned Counsel for the parties i.e. learned Counsel for the Petitioner on submissions made by Mr. Rajendra Prasad Singh, Senior Advocate assisted by Mr. Arvind Kumar Singh and Mr. Ajay Kumar Tripathi, Additional Standing Counsel, Central Government and having perused the entire record of the writ petition and the pleadings as exchanged, this Court is of the view that two aspects have escaped consideration. The matter before the Tribunal was not an aspect that a deputationist at the close of the period of deputation has to revert to the substantive department. It was more than that. In the circumstances of the present case, the rule is such that it permits a teacher, on deputation, to be considered for being absorbed into the service of Navodaya Vidyalaya Samiti. The second part apparently, this Court mentions with humility, escaped notice of the Tribunal.

6. The other aspect is on the totality of the evaluation of the record to come to an objective satisfaction whether the Petitioner Anjali Majee was a person fit or for that matter not fit for being absorbed. On record there is no issue that beyond 1997 there was yet a record which had to be seen and, perhaps, had not been seen. Before the Court there is no material on the basis of which it can be said that the totality of the record upon which information was being asked by the management of the institution had been the subject matter of evaluation. In the circumstances, this Court is of the opinion that there has been an error apparent on the face of the record in not having examined the totality of the record.

7. For the reasons given above, this Court is of the opinion that this matter needs to be remitted to the Tribunal for examination afresh on these two aspects.

8. Thus this writ petition succeeds. The impugned order of the Central Administrative Tribunal dated 18.05.1999 (Annexure-2) is hereby quashed. There will be order as to costs.