
(2013) 08 MP CK 0334

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5278 of 2013

Brij Raj Kishore Sharma

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 07-08-2013

Acts Referred:

Citation : (2013) 08 MP CK 0334

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Alok Katare, for the Appellant; B. Raj Pandey, Government Advocate for Respondents No. 1 to 3/State, for the Respondent

Final Decision : Dismissed

Judgement

Sujoy Paul, J.—Heard. Petitioner is aggrieved by the order dated 12-07-2013 and 16-11-2012. By these orders name of the post is changed (redesignated) and petitioner is repatriated to the parent department. In a similar petition, this Court has passed the order dated 29-07-2013 in Writ Petition No. 5033/2013, operative portion of the order reads as under:

I have heard the learned counsel for the parties.

It appears that the petitioner was appointed on deputation pursuant to his selection by an outsourcing agency. The deputation order Annexure P-6 contains certain conditions on which the petitioner was appointed. One such condition is that the petitioner's terms and conditions will be based on the directions issued from time to time by the General Administration Department.

Shri Newaskar, by relying on the circular of the G.A.D. Circular No. FA-13/17/85/d (1) dated 06/01/1986 submits that maximum period of deputation is prescribed as four years. The petitioner was sent on deputation by order Annexure P-6 dated 11.10.2006. He has completed the maximum tenure of deputation prescribed by the GAD.

In Pramila Rajak, the interference was made because the period of deputation was prescribed and Court opined that it was not required to be curtailed. The interference was made because the petitioner therein was repatriated before the expiry of period of deputation. In the present case, the petitioner has already completed four years maximum period of deputation. Thus, the said judgment has no application. The second order of G.P. Bhargava relied by the petitioner is also based on entirely different fact situation. It cannot be disputed that petitioner's condition for deputation is governed by the order Annexure P-6. The petitioner is bound by the terms and conditions so prescribed and as per the said terms and conditions, the petitioner has over stayed beyond four years (maximum period for deputation). Apart from this, in Kunal Nanda Vs. Union of India and Another, , the Apex Court has held as under:-

A deputationist can always and at any time be repatriated to his parent department, at the instance of either borrowing department or parent department.

The petitioner is unable to show that his any legal, substantive, vested or statutory right is infringed. Hence, no interference is warranted in this petition. Petition sans substance and is hereby dismissed.

In the present case also the petitioner has completed more than 4 years on deputation. Thus, as per the condition of deputation wherein it is made clear that GAD circulars will be applicable, petitioner has completed maximum period on deputation. Thus, applying the same principle, I find no reason to interfere in this matter. Petition is accordingly dismissed. In addition, the Division Bench of this Court in Dr. Madhubala Sharma and Others Vs. Union of India and Others, opined that borrowing or lending department can repatriate the employee at any time. Thus, the petition is meritless and is hereby dismissed.