

(2024) 01 CHH CK 0100
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 5439 Of 2017

Chandra Shekhar Belchandan

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 23-01-2024

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 309

Citation : (2024) 01 CHH CK 0100

Hon'ble Judges : Rajani Dubey, J

Bench : Single Bench

Advocate : Sandeep Jha, Gunjan Tiwari, Meena Shastri, Amrito Das, Annapurna Tiwari

Final Decision : Dismissed

Judgement

1. The petitioner filed the instant petition challenging the order dated 27.09.2017 (Annexure P/1) passed by respondent No.1 thereby relieving the petitioner from respondent Chhattisgarh Housing Board in the garb of repatriating him after completion of deputation period to join in the respondent No.5/Border Roads Development Boards. The petitioner is also challenging the order dated 03.10.2017 (Annexure P/2) issued by respondent No.3 whereby the petitioner was directed to hand over the charge to the post of Executive Engineer.

2. Brief facts of the case as projected by the petitioner, are that the petitioner was selected and appointed vide order dated 22-11-2002 (Annexure P/3) on the post of Assistant Executive Engineer (Civil) under the Border Roads Development Board (in short, BRDB), Ministry of Road Transport and Highways. Petitioner was serving as Assistant Executive Engineer (Civil) in BRDB with sincerity and honesty and to satisfaction of the authorities. In the mean while, respondent no. 1 created respondent no. 2 Naya Raipur Development Authority, where several posts of Executive Engineer (Civil) were vacant. Pursuant to the said vacant post, the petitioner being residence of Chhattisgarh, submitted his application. The application of the petitioner was duly considered and on 25-04-2011 (Annexure

P/4), respondent no. 2 wrote a letter to respondent no. 4 requesting to issue No Objection Certificate of the petitioner so that his services may be taken on deputation. Further on 30-04-2011 (Annexure P/5) respondent no. 3 also wrote a letter to respondent no. 1 thereby submitting that the respondent no. 3 has no objection if the services of the petitioner were taken on deputation.

3. Respondent no. 4 issued an order on 25-09-2012 (Annexure P/6) thereby approving the deputation of the petitioner to render his services to respondent no. 1 on the post of Executive Engineer (Civil) for a period of 3 years. Accordingly, the petitioner was relieved on 25-09-2012 with an observation that no disciplinary/vigilance case was pending or contemplated against the petitioner. Respondent no. 1 thereafter passed an order on 29-10-2012 (Annexure P/8) thereby posting the petitioner as Executive Engineer (Civil) at Naya Raipur Development Authority. The services of the petitioner were further transferred on 20-01-2014 (Annexure P/9) where the petitioner was posted as Executive Engineer (Civil) in the respondent no. 3/ Chhattisgarh Housing Board, Raipur. Petitioner performed his duty with dedication and sincerity and also to the satisfaction of the authorities. However, respondent no. 1 passed an order on 21-01-2015 (Annexure P/10) thereby observing that the petitioner was sent on deputation for a period of 3 years therefore, his services would be repatriated to his parent department with effect from 04-11-2015 after culmination of deputation period. However, the aforesaid order was cancelled vide order dated 03-09-2015 (Annexure P/11) as the services of the petitioner are required in the respondent no. 3. Respondent no. 1 wrote a letter to respondent no. 5 on 04-09-2015 (Annexure P/12) requesting to extend the deputation period of the petitioner for further period of 2 years with effect from 04-11-2015 as the service of the petitioner is required to the respondent no. 1. It appears that respondent no. 5 refused to extend the deputation period of the petitioner vide communication dated 22-09-2015 against which the respondent no. 1 further wrote a letter on 20-10-2015 (Annexure P/13) thereby requesting to reconsider the case of the petitioner for extension of his deputation period. Petitioner was not made known about the order dated 22-09-2015 by any of the respondents.

4. In the meanwhile, respondent no. 3 wrote a letter to respondent no. 1 thereby seeking approval to absorb the services of the petitioner on the post of Executive Engineer (Civil) in respondent no. 3 vide communication dated 09-05-2016 which was duly approved by respondent no. 1 communication dated 30-05-2016 (Annexure P/14). On 07-06-2016 (Annexure P/15), respondent no. 3 passed an order thereby intimating the petitioner that it has been decided to absorb his services as Executive Engineer (Civil) in the respondent no. 3 subject to certain terms and condition including that the petitioner has to submit certificate of resignation/voluntary retirement from his parent department. Petitioner submitted his consent vide application dated 09-06-2016 (Annexure P/16) where he also attached a copy of his technical resignation letter which has been sent to respondent no. 5 on 09-06-2016. The technical resignation sent by the petitioner through proper channel is also annexed as Annexure P/17. The respondent no. 3

also wrote a letter to respondent no. 5 on 21-07-2016 (Annexure P/18) thereby informing about the procedure of absorption of the services of the petitioner in respondent no. 3. Earlier there was ban with respect to posting of officers on outside employment/permanent absorption/inter departmental transfer. However, the same was cancelled vide policy decision dated 04-10-2016. By the aforesaid order, it was decided that all the applications would be processed as per the applicable procedure of the Department of Personal and Training (DoPT). Copy of the order dated 04-10-2016 is annexed as Annexure P/19. Respondent no. 5 wrote a letter to respondent no. 3 on 04-10-2016 thereby refusing to grant permission to the petitioner to be absorbed in the services of the respondent no. 3. It was further stated that the services of the petitioner be repatriated immediately. Copy of the letter dated 04-10-2016 is annexed as Annexure P/20. There was no consideration with respect to technical resignation submitted by the petitioner nor any reason was assigned for refusing the absorption of the petitioner. There was also no consideration with respect to policy decision taken on 04-10-2016 where the ban of absorption outside service was cancelled/superseded. Thereafter, the petitioner immediately made a representation on 24-10-2016 (Annexure P/21) submitting that his technical resignation may be accepted and his services may be allowed to be absorbed in the respondent no. 3. In the said representation, it was further submitted that the petitioner is suffering from hypertension since 2006 due to which he was placed in Med Cat GREF-II due to stress and strain of GREF service and as per the policy decision dated 04-10-2016, his technical resignation and issuance of NOC is required reconsideration. Thereafter, the petitioner further made another representation on 05-06-2017 (Annexure P/22) requesting to issue NOC for absorption of his services in the employment of Government of Chhattisgarh. The petitioner again requested to consider his case in view of the policy decision dated 04-10-2016 as presently there is no ban on outside employment and absorption. Respondent no. 5 in spite of considering the application/representation of the petitioner, issued a show-cause-notice on 17-07-2017 (Annexure P/23) calling as to why formal disciplinary proceeding should not be initiated against him for his overstayal in NRDA Raipur, Chhattisgarh beyond approved term of deputation.

5. Pursuant to the said show-cause-notice, the petitioner submitted detailed interim reply on 24-08-2017 (Annexure P/24) submitting that his service has been absorbed by the Chhattisgarh Housing Board subject to resignation/NOC issued by the parent department therefore, in place of issuance of show-cause-notice, his technical resignation may be considered by the authority and he has not been relieved by the respondent no. 3 anticipating the grant of NOC/acceptance of technical resignation, therefore he could not join his parent department. Petitioner did not receive any communication from respondent no. 5 therefore, he was constrained to make a representation to respondent no. 3 on 27-09-2017 by which he made a request that his case for absorption is pending consideration and no communication has been received from respondent no. 5 therefore, it is requested to further send proposal for extension of deputation

period of the petitioner for further 2 years. The petitioner also referred an office memorandum no. 2/6/2016 dated 17-02-2016 according to which the deputation period may be extended up to 7 years. Copy of the representation of the petitioner along with memorandum dated 17-02-2016 is annexed as Annexure P/25. Thereafter, respondent no. 1 passed the impugned order dated 27.09.2017 (Annexure P/1) relieving the services of the petitioner to join at the respondent 5 without assigning any reason. In compliance of the said order, respondent no. 3 also issued an order on 03-10-2017 (Annexure P/2) whereby the petitioner was directed to hand over the charge to the post of Executive Engineer where the petitioner is presently posted and discharging his duties.

6. The member of the parliament of the Rajnandgaon also wrote a letter to the respondent no. 1 thereby requesting to send a letter for extension of deputation period of the petitioner as the services of the petitioner is required at Rajnandgaon and he is doing his job pretty well. Copy of the recommendation letter written by the Member of Parliament dated 30/09/2017 is annexed as Annexure P/26. Hence, the petition for the following reliefs:-

(i) Hon'ble Court may kindly be pleased to quash the impugned order vide no. F 1- 53/32/ 2012 dated 27/09/2017 issued by the respondent no. 1 (Annexure P/ 1)

(ii) Hon'ble Court may kindly be pleased to quash the impugned order vide dated 03/10/2017 issued by the respondent no. 3 (Annexure P/2).

(iii) Hon'ble Court may kindly be pleased to direct the respondents no. 4 to 6 to accept the technical resignation of the petitioner and also issue no objection certificate within stipulated time so that the services of the petitioner may be absorbed in the respondent no. 3.

(iv) Hon'ble Court may kindly be pleased to direct the respondents to count the services rendered by the petitioner in respondent no. 4 to 6 prior to his absorption in the respondent no. 3 for all service benefits.

(v) Any other order that may be deemed fit and just may also kindly be made including cost of the petition.

(vi) Hon'ble Court may kindly be pleased to quash the impugned order dated 04.10.2016 issued by respondent no. 5 (Annexure- P/ 20)

(vii) Hon'ble Court may kindly be pleased to quash the show cause notice dated 17.07.2017 (Annexure P/23)

(viii) Hon'ble Court may further be pleased to direct the B.R.O. /B.R.D.B. (M.O.D.) authorities i.e. respondent no. 5 & 6 respectively not to take any disciplinary action/coercive action against the petitioner for his overstay of his deputation period.

7. Learned counsel for the petitioner submits that respondents no. 4 to 6 without application of mind refused to grant NOC to the petitioner for absorption of his

services in the respondent no. 1 to 3. Respondents no. 4 to 6 failed to appreciate that as per policy decision dated 04-10-2016 the ban imposed by them for absorption of services of their employee, has been cancelled/recalled therefore, the case of the petitioner is required to be considered in the light aforesaid policy. Since, there is no consideration of the case of the petitioner in the light of the policy decision dated 04-10- 2016, the orders impugned are liable to be quashed. The respondents passed the orders impugned in utter disregard and in connivance with each other and without affording any opportunity of hearing to the petitioner whereby the services of the petitioner has been repatriated back to respondent no. 5 contrary to covenants of the service jurisprudence. Respondent no. 4 to 6 did not consider and decide the representation of the petitioner in an objective manner and at the same time clandestinely pressurized the respondent no. 1 to 3 to relieve the petitioner immediately. The entire action suffered from malice in law and thus liable to be interfered with.

8. Respondents no. 4 to 6 are under obligation to issue NOC to the petitioner immediately as an order of absorption of the petitioner has already been passed by the respondent no. 3. Respondents no. 4 to 6 cannot refuse to issue the NOC as the technical resignation submitted by the petitioner is mere formality and an order of absorption has already been passed by the respondents no. 1 to 3. The respondents no. 4 to 6 cannot force the petitioner not to serve in the State of Chhattisgarh as they are not in need of services of the petitioner. Petitioner is entitled for benefit of his past services rendered in respondent no. 4 to 6 in accordance with the applicable provision/law. Respondents no. 4 to 6 being the employer of the petitioner, are required to consider the case of the petitioner in the light of policy dated 04-10-2016 by which the ban on outside employment/absorption has been cancelled/superseded. Therefore, there is no legal impediment for issuance No Objection Certificate in favour of the petitioner. High Court of Gauhati already held that refusal of the BRO authorities to grant NOC on the ground of ban on outside employment/absorption is ill-conceived, arbitrary and contravenes the fundamental rights guaranteed under Articles 14 and 19 of the Constitution.

9. He further submits that when the aforesaid order was passed, respondents no. 4 to 6 did not cancel the ban imposed on outside employment/absorption. However, the present ban is also not in existence. Petitioner also mentioned in his representation that on account of health conditions and for looking after his old aged parents, he requested to allow him to be absorbed in the services of the respondent no. 3. The respondent being model employer ought to have considered the request of the petitioner objectively.

10. Reliance has been placed on the decision of Allahabad High Court in the matter of Naveen Mishra Vs. Union of India & 4 Ors. passed in Writ Appeal No. 64447 of 2013 order dated 28.04.2017 and the decision of Hon'ble Supreme Court in the matter of National Highway Authority of India and another Vs. Swapan Kumar Mallik and others passed in SLP (CC) No (s). 15434/2016

{Arising out of impugned final judgment and order dated 25.01.2016 in WA No. 324/2015 passed by the High Court of Gauhati} decided on 26.08.2016.

11. Respondent No. 1/State strongly opposes the prayer of the petitioner and submits that respondent no. 3 by its order dated 07/06/2016 (Annexure P/15), the order of proposal for absorption of the services of the petitioner was issued on certain terms and conditions and one of the conditions is the condition no. 4 and according to which, the petitioner is required to submit or produce the resignation/ Voluntary retirement certificate from his parent department. Thus, the order of proposal of absorption issued in favour of the petitioner was purely conditional and the petitioner did not fulfill the conditions. Pursuant to the aforesaid order of proposal for absorption, the petitioner gave his consent for his absorption in the respondent no. 3 in accordance with law and according to the condition no. 4, the petitioner made request to allow/accept his technical resignation submitted by him for the purpose of absorption and the same was duly forwarded to the parent department of the petitioner vide letter dated 21/07/2016 (Annexure P/18) and in response to which, a communication dated 04/10/2016 (Annexure P/20) was received from the parent department of the petitioner in which it was very categorically informed that permission / sanction for permanent absorption of the petitioner cannot be granted as per the direction of authorities.

12. Looking to the requirement of services of the petitioner and on the requests made by the petitioner, the answering respondents also made its all sincere and diligent efforts by sending request for extending the period of deputation for further two years vide letters (Annexure P/12 to P/13) as well as consent / permission for absorption of the services of the petitioner in the establishment of the Chhattisgarh Housing Board vide letter dated 21/07/2016 (Annexure P/18), but the same was denied. Since the order of proposal for absorption was purely conditional and subject to production of resignation / VRS certificate from the parent department which has been refused by the parent department of the petitioner despite there being efforts made by the answering respondents and therefore, the answering respondents have no other option but to relieve / repatriate the petitioner to his Parent Department as there were no sanction / permission / approval with regard to acceptance of his resignation and in absence of the same, the impugned orders (Annexure P/1 and P/2) were issued pursuant to the communication / order dated 04/10/2016 (Annexure P/20). Since the period of deputation of the petitioner has already come to an end and there was no order / permission / sanction for extension of period of deputation as well as order / permission with regard to acceptance of his resignation from service from the parent department of the petitioner, therefore, the impugned orders (Annexure P/1 and P/2) have rightly been issued which do not suffer from any illegality or infirmity. The petitioner is not entitled for any of the reliefs as prayed for by him. Hence, the petition is liable to be dismissed.

13. Reliance has been placed on the judgments of Hon'ble Supreme Court in the

matter of State of Uttar Pradesh and another Vs. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti and others, (2008) 12 SCC 675 & Nisha Priya Bhatia Vs. Union of India and another, (2020) 13 SCC 56.

14. Respondent No. 2 in its reply, submitted that a perusal of Annexure P-6 would demonstrate that the petitioner was permitted to join Naya Raipur Development Authority on deputation for a period of three years only. The aforesaid order was issued on 25.09.2012 in pursuance of which, the petitioner was relieved on 25.09.2012 and on the same day, he joined the Naya Raipur Development Authority, the period of three years as stipulated in the order dated 25.09.2012 had already been expired way back in the year 2015 itself. The services of the petitioner was made available on deputation for a fixed period of three years only. Law of deputation is all settled and a person on deputation has to be repatriated to his parent department after completion of deputation period. In Case of High Court of Gauhati a specific clause regarding absorption was made in the advertisement itself but in the present case, when the petitioner joined the respondent no such promise was made by any of the respondents. Therefore, the petitioner does not have any right to claim absorption in a department where he was sent on deputation.

15. Learned counsel for respondent No.3 submits that vide order dated 29.10.2012 the State of Chhattisgarh took the service of the petitioner on deputation from the central government and posted him in Naya Raipur Development Authority and State of Chhattisgarh on temporary basis until further order posted the petitioner to Chhattisgarh Housing Board from Naya Raipur Development Authority. Thus, a bare perusal of the Annexure P/7 P/8 & P/9 would reveal that the Border Roads Development Board, the employer of the petitioner, had approved the deputation of the petitioner for three years in Naya Raipur Development Authority and from where the State of Chhattisgarh posted him for temporary basis in the Chhattisgarh Housing Board. Since the deputation period of the petitioner was expired in the year 2015 and it was not extended by the employer therefore, it was appropriate to repatriate the petitioner in his original department i.e. Government of India. The contention of the petitioner is that the services of the petitioner were required in respondent no. 3 and therefore the order dated 21.01.2015 was cancelled by the State of Chhattisgarh vide order dated 03.09.2015 (Annexure P/11). The letter (Annexure P/12) would show that extension was sought for two years from 04.11.2015 upto 04.11.2017 that is also ended even one year lapsed.

16. It is clear from Annexure P/15 that clause 4 says that the petitioner is required to produce the resignation letter/ VRS certificate from the parent department which the petitioner failed to produce till date. The Union of India refused the request of the petitioner to be in deputation or absorbed in the Chhattisgarh Housing Board on 04.10.2016. It was directed to the State of Chhattisgarh by Union of India to repatriate the petitioner. Annexure P/23 would show that the Union of India stated that the period of overstayal on deputation

beyond the sanction period will be treated as DIES-NON. The petitioner could not join his parent department as the Housing Board did not relieve him is contradictory to the order impugned in this petition. The petitioner relied on the order passed by High Court of Gauhati but the facts of the instant case are entirely different thus are not applicable in the present case. The services of the petitioner can not be absorbed in the Chhattisgarh Housing Board and thus in pursuance of the order dated 04.10.2016 (Annexure P/20), the petitioner was relieved which is just and proper. Therefore, the instant petition is liable to be dismissed.

17. Learned counsel for respondents No.4 to 6 also opposes the prayer of the petitioner and submits that the petitioner was sent for deputation only for 3 years and his tenure of deputation came to be ended on 04.11.2015 but instead of reporting back to the parent department on completion of approved deputation period, he approached for extension of his deputation tenure through borrowing department. Accordingly, the Govt of Chhattisgarh, Housing and Environment Department vide their letter dated 04.09.2015 had requested the Joint Secretary (BR), Ministry of Defence for extension of deputation period for two more years with effect from 04.11.2015. However, the request of the borrowing department for extension of deputation period was not accepted by the Competent authority i.e. Ministry of Defence (BR Wing) and Govt of Chhattisgarh, Housing and Environment Department was requested to repatriate the officer, vide MoD (BR) letter dated 22.09.2015 (Annexure- IV). Petitioner vide his application dated 24.10.2016 quoting his personal medical issues, had requested the Joint Secretary (BR) Ministry of Defence (BR Wing) for issuance of 'No Objection Certificate (NOC) so as to join Chhattisgarh Housing Board on permanent absorption basis. The *ibid* request of the officer was turned down by the Competent authority i.e. the Joint Secretary (BR Wing) vide MoD (BR) letter dated 04.10.2016 (Annexure-V). Petitioner while proceeding on deputation to Naya Raipur Development Authority, Raipur (Chhattisgarh) had submitted an undertaking for reverting to his parent department on expiry of three years / approved deputation period (Annexure-VI) and thus he is duty bound to revert to this Organisation. The Govt. of Chhattisgarh, Housing and Environment Department requested the Joint Secretary (BR), Ministry of Defence for extension of deputation period for two more years as well as to consider issuing of NOC in the case of the petitioner. Even though the Competent Authority i.e. the Joint Secretary, MoD (BR Wing) did not accept the issues, the said officer did not revert back to his parent department.

18. The Naya Raipur Development Authority extended the period of deputation up to 31.10.2015 without obtaining the NOC from parent department competent authority which is contradictory to deputation policy and a matter of great concern. The Naya Raipur Development Authority has done the extension of the petitioner without consulting the cadre controlling authority/competent authority. Copy of Deputation policy is enclosed as Annexure-VII.

19. Reliance has been placed on the order passed by Delhi High Court passed in

WP(C) 1322/2015 in the matter of Shri Vinod Kumar Pandey Vs UOI & Ors. and order of High Court of Punjab & Haryana at Chandigarh in CWP No 20667/2012 in case of Shri Dharendra Chhetri Vs UOI & Ors.

20. Heard counsel for the parties and perused the material available on record.

21. It is an admitted position in this case that the petitioner is employee of respondents No. 4 to 6 and he rendered his services on deputation by order dated 25.09.2012 (Annexure P/6) and he joined as Executive Engineer (Civil) at Naya Raipur Development Authority as per order dated 29.10.2012 (Annexure P/8) and services of the petitioner were further transferred on 20.01.2014 (Annexure P/9) whereby the petitioner has been posted as Executive Engineer (Civil) in the respondent No.3 Chhattisgarh Housing Board, Raipur. It is also not disputed in this case that respondent No.1 wrote a letter to respondent No.5 on 04.09.2015 (Annexure P/12) requesting to extend the deputation period of the petitioner for further period of two years with effect from 04.11.2015. It is also an admitted position that respondent No.5 refused to extend the deputation period of the petitioner vide communication dated 22.09.2015. Respondent No.1 further wrote a letter on 20.10.2015 (Annexure P/13) requesting to reconsider the case of the petitioner for extension of his deputation period.

22. Respondents No. 4 to 6 filed letter dated 22.09.2015 (Annexure IV) which reads as under:-

23. Annexure V dated 04.10.2016 is a letter which reads thus:-

24. Respondents also filed certificate (Annexure VI) signed by the petitioner and the relevant portion of the said letter is as under:-

I, GO 3112L Rank AEE (Civ) Name C S Belchandan of unit 1444 BCC/48 TF (P) Udayak (GREF), am fully aware that the maximum period of deputation is three years and I shall revert to my parent department on the expiry of three years/ approved deputation period.

25. It is not disputed that the petitioner is employee of respondents No. 4 to 6 and State of Chhattisgarh requested for absorption of the petitioner. As per respondent No.1, Annexure P/15 was issued on 07.06.2016 which reads as under:-

26. Thus, it is clear from clause 4 that the petitioner is required to submit or produce the resignation or voluntary retirement certificate from his parent department but he did not file any certificate or document in this regard. Petitioner challenged the impugned orders only on this ground that some communication was done for his absorption and respondents No. 4 to 6 did not issue 'No Objection Certificate' and petitioner also amended the petition seeking relief that this Court may be directed to respondents No. 5 and 6 not to take any disciplinary action or coercive action against the petitioner for his overstay of his deputation period.

27. It is well settled principle of law that a Government servant does not have an absolute right to chose when he would like to move on to another department or another wing of the Government at his free will. Petitioner and State Government of C.G. requested the absorption of the services of the petitioner in Government of C.G. but his parent department denied the same.

28. Hon'ble Supreme Court in the matter of State of Uttar Pradesh and another Vs. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti and others reported in (2008) 12 SCC 675 held in paras 45 and 46 as under:-

45. Again, in our considered opinion, it was incumbent on the employees to show the right of absorption of retrenched employees in government departments or other public sector undertakings. The petitioners had prayed for a writ of mandamus which presupposes a legal right in favour of the applicant. Such right must be a subsisting right and enforceable in a court of law. There must be corresponding legal duty on the part of the respondent Corporation or the Government which required the Corporation or the Government "to do that which a statute required it to do". No such right of absorption has been shown by the petitioners. Nor could any such corresponding duty of the respondents be shown to the High Court by the employees. As noted above, the case of the Corporation was that the retrenched employees could be absorbed only in accordance with statutory rules framed under proviso to Article 309 of the Constitution. No such direction of absorption of all employees, hence, could be issued by the High Court. The High Court failed to appreciate all these relevant considerations. Even the application by which the Corporation sought to place on record statutory rules was rejected by the Court and a writ of mandamus was issued.

46. It is well settled that a court of law can direct the Government or an instrumentality of State by mandamus to act in consonance with law and not in violation of statutory provisions. Unless a court records a finding that act of absorption of all employees of the Corporation either in government department or in any other public sector undertaking is in accordance with law, no writ can be issued. Therefore, even on that ground, the directions of the High Court deserve to be set aside.

29. It has also been held by Hon'ble Supreme Court in the matter of Nisha Priya Bhatia Vs. Union of India and another reported in (2020) 13 SCC 56 in para 39 as under:-

39. In Kunal Nanda v. Union of India, (2000) 5 SCC 362, it was further observed that (at SCC p. 365, para 6) the basic principle underlying deputation is that the person concerned can always and at any time be repatriated back to his parent department. By sending back the person to his parent department, any adverse effect on the Organisation (RAW) including of reasons of security would be averted. Therefore, a deputationist stands on an altogether different footing than a direct recruit of the Organisation/Department who is exposed as an intelligence officer or his/her becoming unemployable in the Organisation for reasons of

security. A deputationist can be repatriated back to his/her parent department and in cases of misconduct, necessary action can also be initiated against him/her as per the conditions of service governing his/her parent department. In that sense, a deputationist and a direct recruit are not *stricto sensu* similarly placed and thus the plea of differential treatment meted out to them is unavailable. It would not entail discrimination nor be violative of Article 14. Accordingly, we must negate the challenge to constitutional validity of Rule 135.

30. On perusal of the documents, it is clear that the parent department of the petitioner rejected the request of the petitioner and did not issue 'No Objection Certificate' to him and it is also clear that as per clause 4 of Annexure P/15, petitioner did not file his resignation or voluntary retirement certificate.

31. In view of the aforesaid discussions, considering the entire facts and circumstances of the case and in the light of the law laid down by Hon'ble Supreme Court in the aforesaid decisions, this petition being without any substance is liable to be and is hereby dismissed.