

(2015) 02 KL CK 0031

In the High Court Of Kerala

Case No : Writ Petition (C) No. 1969 of 2015 (U)

Girish Kumar R.

APPELLANT

Vs

The Central University of Kerala and Others

RESPONDENT

Date of Decision : 09-02-2015

Acts Referred:

Citation : (2015) 3 KHC 81

Hon'ble Judges : A. Muhamed Mustaque, J.

Bench : Single Bench

Advocate : P.K. Ibrahim, K.P. Ambika and A.A. Shibi, for the Appellant; V. Sajith Kumar, S.C., Advocates for the Respondent

Final Decision : Disposed off

Judgement

A. Muhamed Mustaque, J.—This writ petition is directed against Ext. P10 decision of the Vice Chancellor of the Central University not to extend the period of deputation to the petitioner.

2. The petitioner, while working as Assistant Professor at M.G. University, was appointed as Assistant Professor on deputation in the department of International Relations in the Central University of Kerala. He was thereafter appointed as Associate Professor in the same department. The period of deputation was one year. Thereafter, the petitioner was also appointed as a WTO Chair Professor. The WTO Chair Professor is constituted based on a memorandum of agreement by the Central University of Kerala with the Spices Board.

3. The parent University, M.G. University also issued its consent to appoint the petitioner as WTO Chair Professor in the Central University of Kerala.

4. The petitioner's term was to expire on 15/01/2015. Vide the order dated 22/12/2014, the petitioner's period of deputation as Associate Professor and WTO Chair Professor had been extended for a further period of one year with effect from 16/01/2015. The said order was cancelled by Ext. P10 proceedings dated 14/01/2015. It is mentioned in the proceedings that after verification of

records and antecedents, the competent authority is not satisfied with the continuation of the writ petitioner in the institution and in interest of the University, the petitioner was ordered to be repatriated from the Central University with effect from 15/01/2015. The said order is under challenge before this Court.

5. Heard learned counsel for the petitioner Shri P.K. Ibrahim and the learned Standing Counsel for the Central University of Kerala Shri V. Sajith Kumar.

6. Learned counsel P.K. Ibrahim would argue that no material has been placed to show that the petitioner's activity or antecedents are detrimental to the University. Therefore, the decision of the University to repatriate petitioner on recording unsatisfactory antecedents has put a stigma on the petitioner's service and any decision thereon is unsustainable in law. The learned counsel relied on the decision of the Hon'ble High Court of Andhra Pradesh in *Dr. S.S. Waghe v. The Nizam Institute of Medical Sciences and others* [CDJ 2005 APHC 596]. The learned counsel also relied on the decision of the Hon'ble Supreme Court in *Union of India Through Government of Pondicherry and another v. V. Ramakrishnan and others* [2005 KHC 1896] and submits that when action is taken with malice, the decision to cancel the deputation is unsustainable.

7. Per contra the learned counsel for the Central University of Kerala submits that the petitioner, as a matter of right, cannot claim right to continue in the Central University. He relied on various judgments including *State of U.P. and another Vs. Girish Bihari and others*, and also the decision of the Allahabad High Court in *Shambu Nath Lal Srivastava v. State of U.P. and others* [1984 (2) SLR 396].

8. The deputationist has no legal right to demand continuation of service in a post. The appointment of deputationist in a post is, essentially, based on the agreement between the lending and borrowing institutions. Admittedly, the period of the deputation expired on 15/01/2015. The decision relied on by the learned counsel for the petitioner, of the High Court of Andhra Pradesh in *Dr. S.S. Waghe's case (supra)* is relating to repatriation of a deputationist even before the completion of the period of deputation stating that the work is not upto the satisfaction of the superior authorities. The above decision has no application in this matter. No doubt, when a deputation is cancelled in midway, it may result in some imbalance in the lending institution on account of sudden rejoining of the deputationist. In those circumstances, the borrowing institution has to be cautious while taking any action creating repercussions to the lending institutions.

9. As rightly pointed out by the learned counsel for the University, in *Girish Bihari's case (supra)*, there is no vested right for a deputationist to continue in the service of the institution which borrowed the service. In *Kunal Nanda Vs. Union of India and Another*, it was held that "it is well settled that unless the claim of the deputationist for a 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."

10. It is well settled that any action which results in adverse civil consequence or penal action, requires compliance of principles of natural justice. The reasons stated in Ext. P10 order is regarding unsatisfactory antecedents of the petitioner and is therefore, unsustainable, as no opportunity was given to the petitioner before arriving at such a decision. This, necessarily, will cast stigma on the deputationist. However, that does not mean, if otherwise the petitioner has no right to continue in the service, merely because the reasons stated in the impugned order are unsustainable reasons, it will confer a right upon him to continue in the service. The period of deputation is over. Whatever be the reason for non continuation of the petitioner as a deputationist, the decision of the Central University cannot be questioned, as the petitioner has no right to demand continuation of his service. In such circumstances, I am of the view that the Central University is justified in cancelling the extension order before the same came into effect. However, the reasons stated therein cannot find a place in the record, as the same amounts to casting a stigma on the career of the writ petitioner. The reasons stated for cancelling the deputation is, therefore, unsustainable as the petitioner was never given an opportunity to contradict the adverse remarks made against him and interest of justice demands that these remarks have to be expunged.

11. This writ petition is disposed of as follows: The petitioner's claim for right to continue as a deputationist in the Central University is declined and the reasons and remarks in Ext. P10 for cancelling the deputation are expunged. No costs.