

(2020) 10 DEL CK 0093

In the Delhi High Court

Case No : Civil Writ Petition No. 7839 Of 2020, Civil Miscellaneous No. 25739 Of 2020

Manish

APPELLANT

Vs

Institute Of Human Behaviour And Allied Sciences & Anr

RESPONDENT

Date of Decision : 15-10-2020

Acts Referred:

Citation : (2020) 10 DEL CK 0093

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Rajiv R. Mishra, Saurabh, Jitendar Kumar, Tushar Sannu, Ankita Bhadouriya

Judgement

Jyoti Singh, J

1. By way of the present writ petition the Petitioner seeks to challenge his Relieving Order dated 01.10.2020 passed by Respondent No. 1 whereby he has been relieved of his duties as Junior Engineer (Civil) and repatriated to his parent department i.e. Divisional Railway Manager/P, Northern Railway, Ambala Cantt, subject to contemplated Departmental Inquiry.

2. The Petitioner had in the meantime also submitted a representation dated 01.06.2020 addressed to the Joint Director (Admn.) with a copy endorsed to Director of Institute of Human Behaviour and Allied Sciences (IHBAS) seeking extension of the deputation period for the fourth year i.e. from 03.01.2020 to 04.01.2021. The said representation has been disposed of by IHBAS vide an order dated 12.10.2020 which has been placed on record by learned counsel for Respondent No.1.

3. A reading of the speaking order dated 12.10.2020 shows that the Petitioner had joined IHBAS on 04.01.2017 by transfer on deputation basis from the parent department (Divisional Railway Manager/P, Northern Railways, Ambala Cantt.), for an initial period of one year, extendable on a year to year basis for a

maximum period of three years.

4. After the expiry of the initial one year of his deputed service at IHBAS, Petitioner requested for extension of his deputation upto 30.01.2019. After receiving the consent from the Parent Department, the deputation was extended for the second year.

5. Petitioner again requested for extension of deputation upto 03.01.2020. After receiving consent/approval from the Parent Department, IHBAS again extended his deputation upto 03.01.2020.

6. Petitioner yet again requested for extension for the fourth and fifth year i.e. from 04.01.2020 upto 03.01.2022. IHBAS vide order dated 23.03.2020 repatriated the Petitioner and relieved him from the services of IHBAS w.e.f 31.03.2020, to join the Parent Department. It is also stated in the speaking order that the period of deputation as per the Northern Railways' Notice dated 03.01.2017 was for one year and extendable only upto a maximum period of three years.

7. The petitioner on 24.03.2020 requested IHBAS to keep the Office Order dated 23.03.2020 in abeyance due to outbreak of Pandemic COVID-19 and the nation-wide lockdown, which request was acceded to by IHBAS and the repatriation was kept in abeyance and the Petitioner was allowed to continue, until further orders.

8. The Petitioner has now been relieved to join the Parent Department vide order dated 01.10.2020 which has been impugned in the present petition.

9. Having perused the speaking order and heard the arguments of the learned counsels for the parties this Court is of the view that no infirmity can be found in the action of Respondent No.1 in repatriating the Petitioner to the Parent Department and relieving him. It is a settled law as held by Supreme Court in State of Punjab v. Inder Singh, (1997) 8 SCC 372, that deputation is not a matter of right. Deputation of an employee depends on the consent of the Parent Department which is the Lending Department, the consent of the Borrowing Department and the willingness of the employee concerned. It is not within the scope of the power of this Court in a judicial review to direct the extension of the deputation of the Petitioner in the absence of the consent of the Borrowing and the Lending Departments. Counsel for Respondent No.1 is right in his contention that the deputation of the Petitioner was for a maximum period of three years and the same cannot be extended and the Petitioner has been rightly relieved to join his parent Department.

10. Mr. Tushar Sannu learned counsel for Respondent No. 1 submits that the Petitioner has been relieved from IHBAS but despite that complete charge has not been handed over. Learned counsel for the Petitioner shall ensure that the complete charge is handed over to the Respondent in accordance with the handing over and taking over procedure.

11. At this stage learned counsel for the Petitioner submits that since the parents

of the Petitioner are old and ailing, he may be given an extended joining time to join at Ambala. The Court finds this request of the Petitioner to be reasonable in the prevailing circumstances and permits the Petitioner an extended joining time of 15 days from today, to join his Parent Department, Divisional Railway Manager/ P, Northern Railways, Ambala Cantt.

12. Petition along with the accompanying application is disposed of in the above terms.