
(2013) 04 DEL CK 0321
In the Delhi High Court
Case No : LPA 221 of 2013

Manmohan Anand

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-04-2013

Acts Referred:

Citation : (2013) 04 DEL CK 0321

Hon'ble Judges : D. Murugesan, C.J;V.K. Jain, J

Bench : Division Bench

Advocate : S. Hari Haran and Mr. Kapil Rustagi, for the Appellant; Rajeev Mehra, ASG and Mr. Amrit Pal Singh, for the Respondent

Final Decision : Dismissed

Judgement

CM 6063/2013 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

LPA 221/2013 & CM 6062/2013 (stay)

1. The appellant, an employee of Bank of Baroda was appointed as Presiding Officer of Debt Recovery Tribunal (DRT) on deputation basis, for a period of five years with effect from 15.9.2010 or till he attained the age of 62 years, whichever was to be earlier. Vide order dated 26.4.2012, a Division Bench of Madras High Court observed that the appellant had been taking contradictory stand, in violation of settled legal proposition, in various orders passed by him and, therefore, the matter required consideration by the concerned authorities. The Secretaries, Ministry of Finance and Ministry of Law and Justice were directed to hold an inquiry and take appropriate action in the matter. Vide letter dated 25.7.2012, it was directed by the aforesaid order of the High Court and the minutes of the meeting held on 12.7.2012 between Lawyers Association of Chennai and the Chairman Debt Recovery Appellate Tribunal (DRAT), Southern

Region be brought to the notice of the appellant for primary scrutiny and report. The appellant filed a writ petition seeking quashing of the aforesaid letter dated 25.7.2012. The writ petition was dismissed vide order dated 6.11.2012. Vide notification dated 4.2.2013, the Government of India placed the services of the appellant at the disposal of the Bank of Baroda with effect from 4.2.2013. The appellant filed a writ petition challenging the order dated 4.2.2013. He also filed a CM 2398/2012 seeking an interim stay of the aforesaid order. The learned Single Judge vide order dated 13.8.2013, dismissed the interim application filed by the appellant. Being aggrieved from the dismissal of his application, the appellant is before us by way of this appeal. It is an admitted position that the appointment of the appellant as Presiding Officer, DRT was on deputation basis. A deputation being a tripartite arrangement between the borrower, lender and the employee concerned, it cannot continue without the consent of all the three parties to the said arrangement. A perusal of the impugned order would show that the lender i.e. Bank of Baroda had also sought repatriation of the appellant to his parent department. The borrower department was also unwilling to continue with the services of the appellant, as is evident from the repatriation order passed by it. Therefore, prima facie, we are of the opinion that the respondent was entitled to bring the said arrangement to an end by repatriating the appellant to his parent cadre.

2. Yet another reason we would not like to interfere with the impugned order passed by the learned Single judge is that since the appellant continues to be in service of Bank of Baroda, there would be no irreparable loss to him in the event the order repatriating him to his parent department is not stayed. He would continue to serve with the bank and get salary applicable to the post he holds in the bank. For the reasons stated hereinabove, we find no merit in the appeal and the same is hereby dismissed. We, however, make it clear that the observations made and the view taken in this order being prima facie, would not affect the decision of the writ petition on merits.