
(2011) 01 RAJ CK 0060
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6470 of 2006

Ram Gopal Sharma

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 03-01-2011

Acts Referred:

Citation : (2011) 01 RAJ CK 0060

Hon'ble Judges : Munishwar Nath Bhandari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

-ORDER

M.N. Bhandari, J.—By the instant writ petition a challenge has been made to the order dt.11.08.2006 whereby Petitioner was repatriated to his parent company M/s. Jaipur Metals & Electricals Limited.

2. It is stated that Petitioner was an employee of M/s. Jaipur Metals & Electricals Limited. While working on the post of Clerk-cum-Cashier, he was taken on deputation by Respondent No. 2 vide order dt.20.02.2002. During the period, Petitioner was working on deputation, Managing Director of M/s. Jaipur Metals & Electricals Limited granted permission for Petitioner's absorption by Respondent no.2. The Petitioner was accordingly granted all the necessary benefits including fixation of pay-scale. It was also decided to absorb the Petitioner permanently, hence he was denied the benefit of deputation allowance vide Annex-14 dt.01.07.2004. The aforesaid order clearly indicates regarding deputation of the Petitioner and absorption thereupon by Respondent No. 2. Even in the note-sheets at Annex-13 decision has been shown to have been taken for permanent absorption of the Petitioner by Respondent No. 2.

3. Looking to the aforesaid, learned Counsel for Petitioner submits that while quashing the order dt.11.08.2006 Respondents be directed to treat the Petitioner as absorbed with them or in the alternative the Respondents be directed to

absorb the Petitioner.

4. Counsel for the Respondent on the other hand submits that the order of absorption of the Petitioner has not been passed, rather he was allowed to continue on deputation only. A note-sheet was formulated for giving benefit of absorption to the Petitioner, however, it was never given effect to as no formal order of absorption exists. The Director was not even competent to take such a decision more so when deputation of the Petitioner itself was not legal because M/s. Jaipur Metals & Electricals Limited is not a part of State Public Undertaking, thus deputation even was not permissible. In any case since Petitioner was not absorbed in service, he was repatriated to his parent company. The order at Annexure-12 was accordingly passed in rightful manner.

5. I have considered the submissions made. It is not disputed that Petitioner was taken on deputation by Respondent No. 2 and while Petitioner continuing on deputation, the matter was processed for his absorption. The note-sheet at Annexure-13 shows a decision to absorb Petitioner but then formal order for absorption does not exist and after note-sheet at Annexure-13 upto 16.06.2004, the order dt.01.07.2004 Annex-14 was passed. Perusal of the order dt.01.07.2004 does not show permanent absorption of the Petitioner rather it confirms continuity of the Petitioner on deputation though with denial of deputation allowance. The order further reveals that for his provident fund contribution, the part of Petitioner's contribution would be sent to Jaipur Metals Ltd. Thus, the last order dt.01.07.2004 does not confirm permanent absorption of the Petitioner by Respondent No. 2 rather it shows continuance of the Petitioner on deputation. In view of the aforesaid and in absence of order of absorption, Respondents were within their rights to repatriate the Petitioner to its parent company and accordingly I do not find any illegality in passing the order at Annexe-12 dt.11.08.2006.

6. The writ petition is accordingly dismissed. However, it is clarified that dismissal of the writ petition will not affect Petitioner's right to continue in Jaipur Metals & Electrical Limited and in that regard, the Petitioner is at liberty to make a claim.