
(2010) 03 MP CK 0050
In the Madhya Pradesh High Court

Sadhna Shrivastava (Smt.)	Vs	APPELLANT
State of Madhya Pradesh and Others		RESPONDENT

Date of Decision : 30-03-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 4 MPHT 158

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.—Heard on the question of admission.

2. Feeling aggrieved by the order dated 19-3-2010 (Annexure P-5) by which the petitioner's services have been repatriated to her parent department and the order dated 19-3- 2010 (Annexure P-6) by which the 5th respondent has been posted at her place the petitioner has filed this petition under Article 226 of the Constitution of India.

3. According to the petitioner while she was working on the post of Deputy Director Agriculture (Accounts Officer) in the Farmer Welfare and Agriculture Development Department of the State Government, she was sent on deputation vide order dated 5-1-2008 (Annexure P-2) in the Madhya Pradesh Rural Road Development Authority for a period of one year.

4. On 19-3-2010 the 4th respondent ordered for repatriation of her services to her parent department, aggrieved she has filed this petition.

5. The contention of the petitioner is that the impugned order dated 19-3-2010 (Annexure P-5) by which her services have been repatriated could not have been passed by the borrowing department as her parent department never called her services back. She contends that no decision was ever taken by her parent department as also by the 3rd respondent to repatriate her service to the parent

department. In the circumstances according to the petitioner the issuance of the impugned order by her borrowing department is without jurisdiction. Her further grievance is that though she was initially sent on deputation for a period of one year but when after completion of one year her services were not repatriated then the period of deputation should have been taken to be of three years, and therefore, there was no justification to shorten the period of deputation. In support reliance has been placed on the order passed by this Court on 5-12-2008 in the case of Pramod Kumar Gupta v. State of M.P. and Anr. Writ Petition No. 6652 of 2008 (S).

6. It has also been contended by the petitioner that her repatriation has been ordered to accommodate the 5th respondent whose parent department is Madhya Pradesh Housing Board and who has been posted in her place.

7. Having heard learned Counsel for the parties I find no merits in this petition. Admittedly the petitioner's deputation was for a period of one year w.e.f. 5-1-2008 and was not for a fixed period/specified term. In the case of Pramod Kumar Gupta v. State of M.P. and Anr. (supra), no period was fixed in the order of deputation in the circumstances this Court has observed that it is not understandable as to how and under what circumstances the usual tenure of deputationist can be curtailed in the case of the petitioner. However, in present case the period of deputation was fixed and specified which expired in January, 2009 itself. In the circumstances, if the petitioner has been repatriated she cannot make any grievance for the same. The Supreme Court in the case of Union of India (UOI) through Govt. of Pondicherry and Another Vs. V. Ramakrishnan and Others, , which has been referred to in the order passed by this Court in the case of Pramod Kumar Gupta v. State of M.P. and Anr. (supra), has held that when the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post ordinarily the term of deputation should not be curtailed except on such just ground as for example unsuitability or unsatisfactory performance.

8. In the present case, the term of deputation was specified to be for one year from 5-1-2008. True it is on expiry of the said period the petitioner was not repatriated but the fact remains that no order was issued specifying the further period of deputation. In the circumstances after completion of the initial period of deputation in the absence of its extension the petitioner could have been repatriated to her parent department at any time. A person on deputation can always and at any time be repatriated to his parent department to serve on his substantive position at the instance of the parent department or the borrowing department.

9. Merely because the 5th respondent has been posted on deputation at the place where the petitioner was working it cannot be said that in order to accommodate him the petitioner has been repatriated. The petitioner could not show her right to be remain posted on deputation even after completion of her initial period of deputation, which was not extended for any specified term.

10. In the circumstances no case for interference is made out. Accordingly the petition fails and is hereby dismissed in limine.