

(1997) 07 AHC CK 0106

In the Allahabad High Court

Case No : Writ Petition No. 618 of 1983 and W.P. No. 557 (S/B) of 1994

Shital Kumar Vaish

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 15-07-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 1 AWC 94

Hon'ble Judges : S.C. Verma, J; Dev Kant Trivedi, J

Bench : Division Bench

Advocate : S.M. Bajpai, Pankaj Bajpai, P.K. Chaturvedi, O.P. Srivastava, N.K. Agrawal, R.L. Verma, G.S.L. Verma and R.N. Trivedi, for the Appellant; C.S.C. and J.P. Mathur, for the Respondent

Final Decision : Disposed Of

Judgement

S.C. Verma and Dev Kant Trivedi, JJ.—Aggrieved mainly by the non-absorption of the petitioner with the department of Ramganga Command Area Development Authority and the repatriation order dated 28.2.1983 by which the petitioner has been directed to join on the original post in the parent department, i.e., Kanpur Co-operative Milk Board, the petitioner has approached this Court under Article 226 of the Constitution.

2. In this case, both the petitioner and respondents have been taking different stands at different stages resulting in confusion from both the sides about the nature of appointment and status enjoyed by the petitioner.

3. The petitioner was initially appointed as Assistant Sales Officer at Kanpur Sahkari Milk Board Ltd. by order dated 5/9.4.1974 in the pay scale of Rs. 300-900 and was placed on probation for six months subject to approval by the U. P. Co-operative Institutional Service Board, Lucknow. The petitioner received increments of pay and was substantively appointed with the Kanpur Sahkari Milk Board Ltd. A proposal was made by the Administrator Ramganga Command

Project, Kanpur for appointment of the petitioner on deputation as Subject Matter Specialist (Pashudhan) through letter dated 8.2.1977, as contained in Annexure No. 2 to the writ petition. Accepting the proposal, the Kanpur Sahkari Milk Board through letter dated 25.2.1977/1.3.1977 granted permission for the petitioner's appointment on deputation and he was relieved with effect from 28.2.1977, the said orders are contained in Annexure Nos. 3 and 4 respectively to the writ petition. The petitioner was required to report for duty to the Administrator, Ramganga Command Project. The permission of the State Government was also sought which was granted through G. O. No. 3678/2/12/ (Regional Department-1). dated 13.6.1977 for ad hoc appointment, after consultation with the Governor in the pay scale of Rs. 550-1,200, as contained in Annexure No. 8 to the writ petition. The appointment of the petitioner by the State Government as Subject Material Specialist {Pashudhan) on ad hoc basis in the pay scale of Rs. 550-1,200 was published in the official Gazette through Notification No. 5451 (A.D. (1)/77, dated 14.7.1977).

4. After the petitioner had joined with Ramganga Command Project at Kanpur, there was some problem with regard to fixation of his pay and grant of benefit of the tenure of the service rendered by him with the Kanpur Sahkari Milk Board. The respondent No. 3 by letter dated 31.1.1979 addressed to the Special Secretary, Regional Development Department, treating the petitioner to be on deputation fixed the salary in the pay scale of Rs. 550-1, 200 at Rs. 670 with effect from 1.4.1977. The State Government by order dated 7.5.1979 refused to give benefit to the petitioner of the past services rendered by him with the Kanpur Sahkari Milk Board as also the increments. By another order dated 7.4.1980, the State Government rejected the representation of the petitioner for giving any benefit of the past services rendered with the Co-operative Milk Board and fixation of salary and grant of increments on that basis. The proposal was finally rejected by the State Government by letter dated 4.10.1980 who refused to grant any increment on the basis of past services rendered by the petitioner with the Co-operative Milk Board and his services were treated on the basis of fresh appointment as Subject Matter Specialist (Pashudhan) with the Ramganga Command Project.

5. In the meantime, the case of the petitioner was considered for being sent on transfer to foreign department on deputation for one year as Assistant General Manager with the Ramganga Command Area Development Authority in the pay scale of Rs. 550-1,200 through appointment letter dated 29.6.1981, contained in Annexure No. 14 to the writ petition. By order dated 9.5.1982 of the Administrator, Ramganga Command Authority, the petitioner was sanctioned salary for 18 months amounting to Rs. 18,900. The Administrator, Ramganga Command Area Development Authority, through letter dated 4.5.1982 requested the State Government for giving fresh appointment to the petitioner on the post of Assistant General Manager. The petitioner was treated to be appointed on a newly created post with Ramganga Command Project on the post of Subject Matter Specialist (Pashudhan) with effect from 13.6.1977 in the pay scale of Rs.

550-1,200. It was also indicated that his lien with the Kanpur Co-operative Milk Board still subsists as there was no post available with the Ramganga Command Project, Kanpur. The petitioner who was treated to be on transfer on foreign services, it was not possible to send him back to the Ramganga Command Project department in view of the fact that the post held by him as Subject Matter Specialist (Pashudhan) has been filled up.

6. In the above circumstances, the Administrator by letter dated 4.5.1982, sought permission of the State Government to appoint afresh by direct recruitment in the pay scale of Rs. 550-1,200. The Secretary, Agricultural production and Rural Development Department, U. P. Shasan by Government Order No. 2944/54-1-82, dated 4.6.1982 directed that the appointment of the petitioner be made on a post equivalent to Subject Matter Specialist (Pashudhan) and be given five increments on the pay scale drawn by him with the Milk Board with effect from 1.3.1977, on basic salary of Rs. 640 and thereafter his salary be filled with the Ramganga Command Area Development Authority. It was also indicated in this order that the proposal to appoint the petitioner on deputation with Ramganga Command Project was not acceptable to the Government and his appointment was treated to be fresh appointment. It was further indicated that the position was not very clear and there was correspondence going on in this regard between the Government and Ramganga Command Authority for the last five years. It was also stated that till the date of issuance of the order, the petitioner had maintained his lien on his original post on Assistant Sales Officer, with the Kanpur Co-operative Milk Board. The administrator, Ramganga Command Area Development Authority in compliance of the Government Order dated 4.6.1982 gave a fresh temporary appointment to the petitioner who was, previously working as Subject Matter Specialist (Pashudhan) with Ramganga Command Project. The petitioner was given temporary appointment on the post of Assistant General Manager in the pay scale of Rs. 550-1,200 and he was also given five increments with effect from 1.3.1977 and his basic salary was fixed at Rs. 820. The appointment order dated 10.6.1982 is contained in Annexure No. 18 to the writ petition. The petitioner was thereafter allowed to cross the efficiency Bar at the pay scale of Rs. 900 with effect from 1.4.1979 and his salary was raised from Rs. 900 to 950 by order dated 23.6.1982, contained in Annexure No. 19 to the writ petition.

7. The State Government by order dated 2.3.1983 again indicated its stand that the petitioner was not sent on deputation with Ramganga Command Project, on the other hand, he was given fresh appointment and as such the fixation of the petitioner's salary be made from the date he assumed charge with the project and he cannot be given any benefit of the tenure of the past services rendered with the Kanpur Co-operative Milk Board. The order dated 2.3.1983 is contained in the counter-affidavit as Annexure No. CA 6 filed on behalf of respondent Nos. 1, 2 and 3.

8. Through Letter No. 1462/Prasha./Vya. Ps./80, dated 29.2.1980, the Managing

Director. Kanpur Sahkari Milk Board Ltd. informed the Ramganga Command Area Project Authorities that as the petitioner has taken fresh appointment with the Ramganga Command Project department in the pay scale of Rs. 550-1,200 on his own request, his services stood terminated with the Kanpur Co-operative Milk Board with effect from 1.3.1977, the day he assumed charge with Ramganga Command Project. It was clarified that the petitioner was not appointed on deputation. The letter dated 29.2.1980 is contained in Annexure No. 45, filed along with the rejoinder-affidavit.

9. After the petitioner was given fresh appointment with Ramganga Command Area Development Authority by order dated 10.6.1982 on the post of Assistant General Manager, the State Government by Government Order No. 34282/54-A-9 (106)/81, dated 10.8.82 decided to abolish all the posts with the Ramganga Command Area Development Authority except the post of Chief Engineer. It was further provided that the employees who were working with the Authority should be absorbed with the Ramganga Command Project on the posts available with the project authorities and in case nomenclature of the post is required to be changed or fresh posts are required to be created necessary proposal be sent to the State Government. The Government Order dated 10.8.82 is contained in Annexure No. 29 to the writ petition. The Ramganga Command Area Development Authority abolished all the posts including the post of Assistant General Manager. In the resolution contained in Annexure No. 30 to the writ petition it was stated that Sri S.K. Vaish. Assistant General Manager had no lien with the Ramganga Command Project authorities. The resolution also provided that those employees who were directly appointed by the Ramganga Command Area Development Authority they should be absorbed in the vacant posts with the project authorities and till their absorption with the project authorities, they would be retained with the Ramganga Command Area Development Authority. The petitioner instead of being absorbed has been repatriated to his parent department, Kanpur Co-operative Milk Board Ltd. by order dated 28.2.1983 and he was directed to take charge on his post of Assistant Sales Officer and he would be relieved with effect from 28.2.1983.

10. Aggrieved by the action of the respondents, the petitioner filed the present writ petition and obtained an interim order dated 7.3.1983 staying the operation of the order dated 28.2.1983. It may also be stated that before filing the present writ petition, the petitioner had filed claim petition before the U. P. Public Services Tribunal for fixation of his salary in the pay scale of Rs. 550-1,200 at the stage he was getting in the Kanpur Co-operative Milk Board prior to joining the Ramganga Command Project with full benefit and allowances drawn by him plus deputation allowance etc.

11. In the claim petition, the petitioner had claimed that he was appointed on deputation with the Ramganga Command Project in view of the Government Order dated 13.6.1977 and was entitled for all the benefits in fixation of pay after giving due benefit to the tenure of service rendered with the Kanpur Co-

operative Milk Board.

12. In the written statement filed by the Administrator, Ramganga, Command Area Development Authority, it was stated that the petitioner's services were not on deputation. On the other hand, the petitioner was appointed by Government on the post of Visaya Vastu Vishesagya (Pashudhan) purely on ad hoc basis. The Administrator/Commissioner, Ramganga Command Project, Kanpur, who verified the written statement very clearly stated in paragraph 6 that the petitioner was appointed on ad hoc basis in the Ramganga Project and he was not on deputation and the petitioner's services in the Kanpur Cooperative Milk Board stood terminated as referred in letter dated 29.2.1980, copy of which was filed along with Annexure No. 32 to the writ petition. In paragraph 9, it was stated that the petitioner was not entitled for any deputation allowance and the question of payment of any allowance did not arise. The petitioner was not on deputation with the Ramganga Command Project and he ceased to have any lien for his service with the Kanpur Co-operative Milk Board.

13. In the counter-affidavit filed on behalf of respondents No. 1, 2 and 3, it has been stated that the petitioner was appointed on purely ad hoc basis with effect from 1.3.1977 in pay scale of Rs. 550-1,200. The representation of the petitioner dated 22.9.1979 was rejected by the State Government by orders dated 7.5.1979 and 7.4.1980. Similarly, the representation dated 12.5.1980 was also rejected by the State Government on 4.10.1980.

14. It was stated in the counter-affidavit in para 11 that the petitioner after being relieved from the Milk Board, reported for duty in the Authority on 1.3.1977 and started discharging duties from the said date. It was on 13.6.1977 that the Government issued appointment letter to the petitioner intimating him that he was being appointed on purely ad hoc basis as Subject Matter Specialist (Pashudhan). A copy of the said letter was also sent to the petitioner, which is annexed as Annexure No. 6 to the writ petition. The petitioner did not protest against the said appointment. It would thus be clear that the petitioner was really appointed by the State Government was not treated on deputation.

15. In para 14 of the counter-affidavit, it was stated that the petitioner is serving the Ramganga Command Area Development Authority with effect from 4.7.1981. In para 15, it was stated that the State Government by order dated 2.3.1983 directed that the petitioner is entitled to the benefit of the salary with effect from the date of joining the authority and not from any previous date. A copy of the said order of the State Government is annexed hereto as Annexure No. A6. In the circumstances the petitioner is entitled to fixation of his salary in the pay scale of Rs. 550-1,200 with effect from 4.7.1981 and not from any earlier date.

16. In paragraph 23, it has been stated that the Government Order dated 10.2.1982 does not provide that on abolition of a post in the Authority, all the employees may be absorbed in the project. The petitioner was working on a purely ad hoc basis in the Authority and as such has no claim for absorption in

the authority or the project. There is no post against which the petitioner can be absorbed taking into account his educational and other qualifications. The petitioner as a matter of fact holds a Hen in the Kanpur Milk Board. The Milk Board had requested the Authority to relieve the petitioner by its letter dated 17/21-2-1983. The post against which the petitioner was working in the Ramganga Command Area Development Authority has been abolished.

17. In para 29, it was stated that the petitioner in the Ramganga Command Project and subsequently in the Ramganga Command Area Development Authority was appointed purely on ad hoc basis. The petitioner as stated earlier held permanent lien in Kanpur Milk Board. He does not hold any Hen either in the Ramganga Command Project or in the Ramganga Command Area Development Authority. The question of petitioner being absorbed in the Ramganga Command Project does not arise.

18. The petitioner has also brought on record the Government Orders dated 5.5.1983, contained in Annexure No. SA-1 filed alongwith the Supplementary Affidavit, the Government Order dated 5.5.1984 is contained in Annexure No. SA-2 and the Government Order dated 26.2.1985 is contained in Annexure No. SA-3 as also the Government Order dated 25.6.1986 is contained in Annexure No. SA-4 to establish that the post of Subject Matter Specialist (Pashudhan), in the pay scale of Rs. 850-1,720 continued with the Ramganga Command Area Development Authority, Kanpur.

19. We have heard the learned counsel for the petitioner at length in support of his contention that the petitioner was given fresh appointment both by the Ramganga Command Project as also by Ramganga Command Area Development Authority and he did not work on deputation with either of the two authorities. The case further set up by the learned counsel for the petitioner is that at the relevant time he was an employee of Ramganga Command Area Development Authority by virtue of fresh appointment given by the letter dated 10.6.1982 and his services with the Kanpur Sahkari Milk Board stood terminated and as such he was liable to be absorbed at the establishment of respondents No. 2 and 3 instead of being repatriated to the parent department, the Kanpur Co-operative Milk Board.

20. The stand taken by the learned counsel for the respondents No. 2 and 3, on the other hand is that the petitioner on his own request and with his consent, was sent on deputation with Ramganga Command Project and his permanent Hen continued with Kanpur Co-operative Milk Board. The petitioner after abolition of his post of Ramganga Command Area Development Authority was sent back to his parent department, the Kanpur Co-operative Milk Board who were prepared to take him back on his original post.

21. The learned counsel for the respondents apart from the specific reliance on the documents which are on record relating to the petitioner's appointment laid special emphasis on the request of the petitioner by which he had obtained the

order of the Managing Director of the Kanpur Co-operative Milk Board stating that the petitioner's permanent lien with the Milk Board still subsists. The learned counsel for the respondents submitted that the petitioner is stopped from taking the stand that he was not appointed on deputation and his lien came to an end with the parent department.

22. In the above conspectus of facts and material which has been brought on record by the petitioner as well as by the respondents, it has to be determined as to whether the petitioner was appointed on deputation with Ramganga Command Project. Kanpur and continued in the same capacity with Ramganga Command Area Development Authority till he was repatriated by Order dated 28.2.1983 or he was given fresh appointment : firstly by Ramganga Command Project by Order dated 13.6.1977 and thereafter he was again given appointment by Ramganga Command Area Development Authority, Kanpur by Order dated 10.6.1982.

23. Before we advert to the case of the petitioner on the facts and material brought on record, it would be necessary to state the basic features involved in the appointment by deputation and the conditions of service which an incumbent enjoys in the foreign department on being sent on deputation.

24. In the case of appointment on deputation an employee is treated on loan to another employer and can be recalled. It is also possible that such an employee is retained in service by the employer to whom his services are lent but that can only be done with the consent of the employee as well as with the consent of the previous employer. So long as an employee is on deputation, he retains the links with the previous employer and his lien is kept in the service of the previous employer. If appointment of an employee is made by transfer to another department then on appointment by transfer he ceased to be an employee of the previous department.

25. An employee on deputation cannot be appointed on probation nor could be confirmed without severing his connection with the parent department. The employee on deputation is liable to be recalled and the services on deputation will be counted as service in the parent department. The employee does not lose his lien in the parent department. The employees would be entitled to deputation allowance if the Rules provide. The seniority in service in the parent department shall be maintained and would be restored as and when the employee is called back and he joins the parent department. He would also be entitled to all the promotions in the parent department on the basis of his service record at the department sent on deputation. The departmental action can be taken by the parent department only. The employee sent on deputation would enjoy the same pay scale or higher emoluments which he was getting with the parent department and would also be given increments on the basis of service rendered with the parent department with continuity in service.

26. The petitioner was appointed with the Kanpur Co-operative Milk Board by

order dated 5/9.4.1974 on probation for six months. The petitioner was confirmed and was also given increments in the pay scale during his employment with Kanpur Co-operative Milk Board. Although there was proposal for appointment of the petitioner with Ramganga Command Project on deputation on the post of Subject Matter Specialist (Pashudhan) but from the fresh order of appointment dated 13.6.1977, the appointment was made on ad hoc basis in the pay scale of Rs. 550-1.200. From the Notification dated 14.4.1977 issued by the State Government appointing the petitioner, it is further established that the petitioner was given fresh appointment with Ramganga Command Project. Kanpur. The fresh appointment of the petitioner with Ramganga Command Project, is also established by the various orders issued by the State Government refusing to fix his pay on the basis of his scale of pay with Kanpur Sahkari Milk Board as also on the basis of courts of service rendered by the petitioner with the Milk Board. The said position is clearly established from the orders of the State Government dated 7.5.1979, contained in Annexure No. 2, dated 7.4.1980 contained in Annexure No. 3 and dated 4.10.1980, contained in Annexure No. 4 to the counter-affidavit. By order dated 2.5.1983, contained in Annexure No. 5 to the counter-affidavit, the stand taken by the State Government is further confined that the petitioner was not appointed on deputation with Ramganga Command Project but he was given fresh appointment and his salary was to be fixed without taking into account the services rendered by him with the Kanpur Milk Board. The parent department of the petitioner, the Kanpur Co-operative Milk Board has also taken the same stand as indicated in the order dated 29.2.1980 passed by the General Manager terminating the services of the petitioner with the Kanpur Co-operative Milk Board as he was not sent on deputation and was given fresh appointment.

27. The orders dated 7.5.1979, 7.4.1980 and 4.10.1980 passed by the State Government are quoted below :

7-5-1979?

^mi;ZqDr fo"k;d vkids i= la[;k & ih-bZ-vkj-ch- 1@4345 fnukWad 31 tuo]h] 1979 ds lanHkZ esa eq>s ;g dgus dk funsZ"k gqv k gS fd Jh ,l-ds- oS"; dks lgdkjh feYd cksMZ esa dh xbZ lsokvksa dk ykHk orZeku fu;qfDr esa ugha fn;k tk ldrk gSA vRk% Jh ,l-ds- oS"; dks osru o`f) Lohdkj fd;k tkuk IEHko izrhr ugha gksrk gS**A

7-4-1980?

^mi;ZqDr fo"k;d vkids i= la[;k & ih-bZ-vkj-ch-&1@3356 fnukWad 22 Qjo]h] 1980 ds lanHkZ esa eq>s ;g dgus dk funsZ"k gqv k gS fd Jh ,l-ds- oS"; dks lgdkjh feYd cksMZ esa dh xbZ lsokvksa dk ykHk orZeku fu;qfDr esa osru fu/kkZj.k IEHko ugha gSA rnuqlkj d`i;k mDr izLrko dks lekIr djus dk d"V djsa**

4-10-1980?

^^Jkh ,l-d-oS";] fo"k; oLrq fo"ks"kk ?i"qk/ku? jkexaxk dek.M ds osru fu/kkZj.k

ds lEcu/k esa vkids i= la[;k ih-bZ-vkj-ch-&rhu@ch1@566 fnukWad 21-5-1980 ds lanHkZ esa eq>s ;g lwfpr djus dk funsZ"k gqvk gS fd iz"uxr ekeys iqufoZpkjksijkUr "kklu }kjk ;g fu.kZ; fy;k x;k gS fd ,l-ds-oS";] fo"k; oLrq fo"ks"kk ?i"qk/ku? dks fdLh izdkj dh osru o`f) Lohdj fd;k tkuk laHko ugha gSA rnuqlkj d`i;k bl izLrko dks lekIr djus dk d"V djsaA**

28. From the above material on record, it is established that the benefit of any of the conditions of service of an employee sent on deputation was not given to the petitioner after his appointment with Ramganga Command Project with effect from 1.3.1977. The petitioner was appointed afresh in the new pay scale and his salary was fixed accordingly without giving any benefit of his post services, or treating him in continuity of previous service. The petitioner was also not paid any deputation allowance.

29. In the case of State of Mysore Vs. M.H. Bellary, , it has been held:

"The service of an officer on deputation in another department is treated by the rule as equivalent to service in the parent department and it is this equation between the services in the two departments that forms the basis of Rule 50 (b). So long therefore, as the service of the employee in the new department is satisfactory and he is obtaining the increments and promotions in that department, it stands to reason that satisfactory service, and the manner of its discharge in the post he actually fills, should be deemed to be rendered in the parent department also so as to entitle him to promotions which are open on seniority-cum-merit basis."

30. In the case of P.C. Wadhwa Vs. State of Haryana and others, , it has been held :

"We are unable to read in any of these rules any prohibition or bar to the payment of deputation allowance to an Officer of the I.P.S. Cadre on deputation to any of the authorities mentioned in sub-r. (2) (i) above. In the instant case the appellant was sent on deputation to the Board which is a body wholly or substantially owned by the State Government. The mere absence of the provision for payment of deputation allowance cannot be interpreted to mean an absolute bar to the receipt of such deputation allowance by an I.P.S. Cadre Officer, if other rules permit such a course of action."

31. The petitioner while working with the Ramganga Command Project was sent for one year on transfer with Ramganga Command Area Development Authority on foreign service. In the appointment order dated 29.6.81 although it has been stated that the appointment is for one year in foreign service by transfer but services of the petitioner were not treated on deputation. The petitioner was thus appointed afresh with Ramganga Command Area Development Authority on the direction of the State Government dated 4.6.1982 on the post of Assistant General Manager in the pay scale of Rs. 550-1,200, on temporary basis, from his employment with Ramganga Command Project on the post of Subject Matter Specialist (Pashudhan).

32. On the above appointment, the petitioner was given five increments and his basic salary was fixed at Rs. 820 and after including the next increment with effect from 1.4.1977, it was fixed at Rs. 860 per month. The petitioner was also allowed to cross efficiency bar with effect from 1.4.1979 and his salary was raised from Rs. 900 to Rs. 950 by order dated 25.6.1982.

33. The orders dated 10.6.82 and 23.6.82 leave no room for doubt that the petitioner was given fresh appointment with Ramganga Command Area Development Authority. Even if it is accepted for argument sake that there was some doubt with regard to the status of the petitioner at the time of his employment with Ramganga Command Project, as to whether he was on deputation, his appointment by order dated 10.6.1982 with Ramganga Command Area Development Authority makes it abundantly clear that the petitioner was not at all treated on deputation, on the other hand, he was given fresh temporary appointment. Although the respondents No. 1 and 2 in their counter-affidavit have very clearly accepted that the petitioner was not appointed on deputation with Ramganga Command Project or with Ramganga Command Area Development Authority, the documents stated above make it crystal clear that the petitioner's appointment was not on deputation with Ramganga Command Area Development Authority and in pursuance to the order dated 10.6.1982 he was given fresh appointment in the department.

34. In the above context, the law laid down by Hon''ble Supreme Court may be quoted. In the case of Ram Parkash Makkar Vs. State of Haryana and others, , it has been held :

"The fact that the order of appointment for the post of Assistant in the Directorate was termed as an appointment on transfer basis coupled with the fact that his probation is commenced shows that it was a case of appointment by transfer and not one of deputation. The order expressly contemplates his confirmation in the Directorate. Though the order stated that his appointment was purely temporary and he was liable to be reverted back to his parent department at any time, but this clause must be read alongwith other recitals in the order and if so read, it must be understood as operative during the period of his probation only. Once his probation was declared to have been satisfactorily completed and particularly after he was also promoted as Personal Assistant in the Department, and his probation commenced and declared in such post also--it cannot be maintained that he was only on deputation in the Directorate. The correspondence between the Directorate and Secretariat shows that all that was remaining to be done was a formal order of termination of his lien in the Secretariat Service and a corresponding order of confirmation in the Directorate. The argument that the very Directorate was temporary and, therefore, there was no question of permanent absorption of anyone in its service is not sustainable. The appellant stands on the same footing as other regular employees of the Directorate in this behalf. Thus in the circumstances the appellant must be held to have been appointed on regular basis as an Assistant in the Directorate and

subsequently promoted as Personal Assistant. It is not a case of deputation. No opinion need be expressed on the submission that the appellant's promotion as a Personal Assistant was contrary to rules and that he was not eligible to hold the said post as that was not the ground upon which the impugned order was passed. Therefore, the order of reversion of the appellant to the parent department must be held to be contrary to law and is accordingly quashed."

35. In the above circumstances, the respondents cannot be allowed to fall back and take a contradictory stand that the petitioner continued on deputation with the respondents No. 2 and 3 and he was liable to be sent back to his parent department where his lien continued. The respondents were not correct in changing their stand to suit their action in order to save their liability to pay emoluments to the petitioner without understanding the legal implications of various orders passed by them. The conduct of the respondents had not been fair to somehow defeat the claim of the petitioner by issuing inconsistent orders and taking difference stands in their affidavits filed on their behalf.

36. We are satisfied from the material on record that the petitioner's services stood terminated with Kanpur Sahkari Milk Board after he was given fresh appointment by Ramganga Command Project and thereafter by Ramganga Command Area Development Authority and he cannot be repatriated to the parent department treating his services to be on deputation. The petitioner was thus liable to be treated as an employee appointed and working with Ramganga Command Area Development Authority before the Government Order No. 34282/54-I-9-(106)/81, dated 10.8.82 was published and was entitled for his absorption as laid down in the said order. The petitioner was also entitled to all the consequential benefits including promotion, revision of pay scale and such other conditions of service which has been provided by Ramganga Command Area Development Authority to the employees on the same post and in the same pay scale.

37. The Writ Petition No. 618 of 1983 is allowed, the order dated 28.2.1983 is quashed with the directions stated above should be made available to the petitioner within four months from today if not already given.

38. In Writ Petition No. 557 (S/B) of 1994, the petitioner has mainly prayed for necessary directions to the opposite parties to enforce the Government Order dated 2.12.1993 and to pay the arrears of salary due with effect from 28.2.1983 to 2.12.1993 along with 18% interest per annum thereon. The petitioner has also prayed for fixation of his salary in the pay scale of Rs. 3,000-4,500 with effect from 1.1.1986 and personal pay scale in the pay scale of Rs. 3,700-5,000 with effect from 1.1.1994 as per Government Order dated 2.9.1993.

39. In Mew of the reliefs granted to the petitioner and the directions issued for providing all consequential benefits, we do not consider it necessary to pass any separate order or grant reliefs as claimed in the petition (W.P. No. 557 (S/B) of 1994) in view of the orders passed in Writ Petition No. 618 of 1983.

40. The Writ Petition No. 557 (S/B) of 1994 is finally disposed of.