
(1995) 07 GUJ CK 0042

In the Gujarat High Court

Case No : Special Civil Application No. 2360 of 1995

S.M. Christian

APPELLANT

Vs

Registrar Co-operative Societies and Others

RESPONDENT

Date of Decision : 28-07-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 1 GLR 94

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Judgement

S.K. Keshote, J.—Heard the learned Counsels for the parties. The facts which are not in dispute in this case are as follows :

2. The petitioner appointed as Typist, on 13-2-1980, in the office of the Rajkot District Panchayat at Rajkot. From Rajkot, the petitioner has come on deputation in the office of the Gujarat Land Development Corporation Ltd., Ahmedabad.

3. The petitioner has not stated the date on which she has come on deputation in the Corporation.

4. From the Corporation, the petitioner was taken on deputation in the office of Registrar, Co-operative Societies, Gandhinagar, vide order dated 26-6-1986, and she could have continued in the office of Registrar till 31st March, 1995, but she is continued till today on deputation in the office of the Registrar, Co-operative Societies, under the interim order which has been granted by this Court. As per the Government circular, the deputation of an employee is permissible only for 4 years and the petitioner has already completed the period of more than 4 years even in the office of the Registrar, Co-operative Societies, Gandhinagar itself.

5. The deputationist does not acquire an indefeasible right to continue on deputation for an indefinite period. From the facts which have been stated by the petitioner in the petition it comes out that she has managed to continue at Gandhinagar (Ahmedabad) on deputation; firstly, with the Gujarat Land

Development Corporation, and then in the office of the Registrar, Co-operative Societies, Gandhinagar. The inference of managing her deputation at Gandhinagar (Ahmedabad) clearly borne out from the facts that her husband is serving at Ahmedabad. An employee who has opted for the Government service or of District Panchayat has no choice of his place of posting. If for one or the other reason, she has been continued at the office of the Registrar, Co-operative Societies, Gandhinagar for a period of exceeding 4 years, the permissible maximum period of deputation, no right much less and enforceable right is accrued in favour of petitioner to continue to remain on deputation at Gandhinagar in the office of the Registrar, Co-operative Societies. Similarly, she does not acquire any right of absorption on the post on which she is working on deputation or any other posts in the office of the Registrar, Co-operative Societies, Gandhinagar. The deputation is permissible for a maximum period of 4 years as per the Government Circular, which is not in dispute. The stay of the petitioner for the period exceeding 4 years is illegal. The deputationist has no right to the post and, in case, ultimately she has been ordered to be repatriated to her parent department, she cannot make any grievance against it. Possibly this time, the petitioner has failed to manage her continuation on deputation to third department or the Corporation. The petitioner has conveniently avoided to mention the date on which she has come on deputation from the office of Rajkot District Panchayat to the office of Gujarat Land Development Corporation. None of the legal or fundamental rights of the petitioner are being infringed. The order dated 16-3-1995 does not suffer from any error or irregularity much less from an illegality. In case, the prayer of the petitioner is accepted by this court, and she is allowed to continue on deputation in the office of Registrar, Co-operative Societies, Gandhinagar, it will be contrary to the Circular of the Government. This Court sitting under Art. 226 of the Constitution of India, cannot compel the State or its functionaries or officers to act contrary to their own Circulars. Much emphasis has made by learned counsel for the petitioner on the hardships which are likely to be caused to the petitioner due to her repatriation to the District Panchayat, Rajkot. It is needless to say that these are exigencies of the service for which the petitioner has opted. The learned Counsel for the petitioner has next contended that the case of the petitioner requires a sympathetic consideration. The petitioner has come up before this Court for issuance of a writ, order or direction for quashing and setting aside of the order dated 16-3-1995, and it is only acceptable in case the order would have been found to be illegal or arbitrary or infringes any of legal or fundamental right of the petitioner and not otherwise. So far as the prayer for issuance of writ of mandamus to give the direction to the respondent No. 1 to absorb the petitioner permanently in his office, is also difficult to be granted for the obvious reason that she has no legal or fundamental right of absorption on the post on which she was working on deputation.

6. In the result, the writ petition fails and the same is dismissed. The notice is discharged. The interim relief stands automatically vacated. No order as to costs.

7. Rule discharged.