
(2019) 02 CHH CK 0041
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 767 Of 2019

Yugal Kishore Panda

APPELLANT

Vs

State Of Chhattisgarh & Others

RESPONDENT

Date of Decision : 06-02-2019

Acts Referred:

Citation : (2019) 02 CHH CK 0041

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Anup Majumdar, Arvind Dubey, A.S. Kachhawaha

Final Decision : Disposed Off

Judgement

P. Sam Koshy, J

1. The present writ petition has been filed assailing the action on the part of the respondents in initiating the recovery proceeding in respect of certain alleged erroneous pay scale which the petitioner was granted and also in respect of the excess amount of deputation allowances which the petitioner has received for having over stayed on deputation for a period of more than 4 years which is the maximum period permissible under the service rules.

2. Contention of the counsel for the petitioner is that when the post was advertised to be filled up on deputation, the respondents very categorical term offered the pay scale of 2200-4000 for which the petitioner applied and got selected. He worked for the period as long as he was there in the borrowing department on deputation. According to the petitioner, he was never responsible for the said pay scale, but it was the offer of the respondents themselves while taking the services of the petitioner on deputation. Likewise, it was the contention of the petitioner that initially he was sent on deputation in the year 1997 and he continued on deputation till 2006. Thereafter he was repatriated to his parent department. According to the petitioner, if at all if the petitioner could not have remained on deputation for a period of more than 4 years, it was the

responsibility of the borrowing department as well as the parent department to recall the petitioner back. Here again it was not the fault of the petitioner for having over stayed his deputation period rather it was the fault on the part of the borrowing department as well as the parent department who had not recalled or repatriated earlier. For this reason also, the petitioner cannot be held responsible for having drawn any deputation allowances for a period beyond 4 years. Thus counsel for the petitioner prayed for the decision of the respondents in this regard to be set aside/quashed.

3. The respondents, on the other hand, tried to justify the action of the respondents on the ground that under the service rules the petitioner could have stayed on deputation for a period of 2 years which could have been extended by another two years i.e. maximum of 4 years. The petitioner stayed beyond 4 years and therefore he would not be entitled for deputation allowances. It was further contention of the respondents that in the course of scrutinizing the case of the petitioner it was found that the petitioner has been erroneously granted pay scale of 2200-4000 whereas he was entitled for only the pay scale of 1320-2040. Therefore, it stands proved that the petitioner has been paid much more than what he was otherwise entitled for and for this reason also, the impugned action of the respondents does not warrant any interference.

4. Having heard the contentions put forth on either side and on perusal of record what is admittedly clear from the pleadings is that the petitioner was sent on deputation from Tribal Development Department to Rajeev Gandhi Shiksha Mission on deputation in the year 1997. The deputation period continued up till 31.08.2006. Thereafter the petitioner stood repatriated back to the Tribal Department where he is still working. It is also the admitted position that when the petitioner was sent on deputation, the respondents themselves had offered the petitioner the pay scale of 2200-4000 which the petitioner received all through his deputation period. There has been no misrepresentation or fraud played by the petitioner in getting the said pay scale. It is also not the case of the respondents that the petitioner had made any effort for staying on deputation for a period beyond 4 years, rather it appears that the respondents themselves did not recall the petitioner back after his completion of 4 years term on deputation. Thus, as long as the petitioner was on deputation at the instance of the respondents, he would definitely be entitled for the benefits and allowances which would be payable to an employee on deputation. For the aforesaid reasons, the action on the part of the respondents in initiating recovery proceeding against the petitioner is totally unjustified, uncalled for and without any cogent reason or basis.

5. In view of the same, this Court is of the opinion that the action on the part of the respondents initiating recovery proceeding is liable to be held bad in law and it is ordered accordingly. It is made clear that the respondents would not be liable to carry out any recovery so far as the benefits which the petitioner had received while discharging his duties on deputation.

6. The writ petition according stands allowed and disposed of.