

Writ Petition No. 11759 of 2011

22/07/2011

Shri S. K. Patel, learned counsel for the petitioners.

This petition under Article 226 of the Constitution of India is directed against the order dated 27-05-2011 whereby, the petitioners are repatriated to the parent department i.e. School Education Department.

The petitioners are the employees of School Education Department and were sent on deputation as Block Academic Coordinator, Janpad Shiksha Kendra, Nagod, district Satna, in the year 2003 while holding the post of Upper Division Teacher. Subsequent thereafter, the petitioners were promoted as Head-Master by order dated 08-02-2008; however, it appears that, they were continued to discharge the duties as Block Academic Coordinator, Janpad Shiksha Kendra, Nagod. Subsequent thereafter, the impugned order came to be passed on the ground that since Head-Masters are not eligible to be posted as Block Academic Coordinator, the petitioners were repatriated to the parent department.

Trite it is that to be on deputation is not a right. Equally true it is that the term of deputation can be curtailed. It has been held so by Division

Bench of this Court in the case of Anil Kumar Nanda v. State of Madhya Pradesh and others (W.A. No. 802/2007 and other connected matters) decided on 02-07-2007; that a deputation can be curtailed at any time as it does not create any vested right in the deputationist.

The ratio laid down in Anil Kumar Nanda (supra) as culled out in paragraph 39 thereof is that curtailing the tenure of deputation and repatriation before completion of tenure is not bad in law. It was held :

“39. From the aforesaid analysis, it is clear as noon day that some of the officers have been working in the deputed posts from considerable length of time. True it is, some of them have been sent recently and their tenure has been curtailed. The colossal complaint that is urged is that the tenure has been curtailed. The supporting stand of the Municipal Corporations and the Municipalities is that if the deputationists are allowed to be repatriated, there will be difficulty in the functioning of the Municipal Corporations and the Municipalities. The other stand of the interveners and the Associations is that by such deputations, their promotions are affected. We are not inclined to dwell upon the conception

of abridgment of prospects of promotion because the present state of litigations do not involve such a lis. We are also not inclined to address ourselves to the stand and stance put forth by the Municipal Corporations and the Municipalities as we are disposed to think, they can always enter into communication with the Government about the need keeping in view the rules in vogue and solve the problem. There is per se no justification on their part to support a particular set of deputed incumbents on the guise of conception of necessity. The necessity can be looked after from other spectrums by the Municipal Corporations/Municipalities as well as by the State Government. We only observe that the State Government and the Municipal Corporations and Municipalities should work in harmony so that the work of the Municipal Corporations and the Municipalities does not suffer. What we are disposed to think is that the original employer has a right to pass an order of repatriation and such orders have been passed keeping certain parameters in view. Be that as it may, no mala fide is perceptible.

The employee has no right to be continued in the said post. What is canvassed before us is that the need has to be taken into consideration. The State Government has urged that the said aspect has been looked into. Be it placed on record and there is no case where absorption has been made/taken place."

In view whereof no interference is warranted with the impugned order of repatriation.

In the result the petition fails and is hereby dismissed.

(SANJAY YADAV)  
JUDGE