

Prabhakar Tikaria Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-08-2013

Appellant : Prabhakar Tikaria

Respondent : The State of Madhya Pradesh

Advocate for Def. : Shri. Yogesh Dhande

Advocate for Pet/Ap. : Shri. Akash Choudhary

Judgement :

W.P.No.10188/2013 08.10.2013 Shri Akash Choudhary, learned counsel for the petitioner.

Shri Rahul Jain, learned Govt.

Advocate for respondents- State.

Shri Yogesh Dhande, learned counsel for the respondent No.4.

Heard on I.A.No.9274/2013 an application for vacating interim stay dated 18.6.2013.

By filing this writ petition, the petitioner has called in question the order dated 14.3.2013, by which the petitioner has been repatriated back to his parent department contending inter alia that the petitioner, who was working as Sub Engineer in the Fisheries Department of Government of Madhya Pradesh, had

taken part in a process of selection for deputation posting under the M.P.State Employment Guarantee Council.

Such a selection was done by the agency constituted by the said Council and the posting order was issued on 12.10.2006.

After joining the services, the petitioner discharged his duties efficiently.

However, without there being any justified reason, all of a sudden on 14.3.2013, a direction was issued for repatriating back the services of the petitioner to his parent department and he was relieved from the post.

It is contended in the writ petition that such an action on the part of respondents was not correct, inasmuch as, the petitioner could have been repatriated only in circumstances if he has committed any misconduct while working on deputation or the project in which the petitioner was appointed on deputation, has been completed.

None of these contingencies were available, therefore, the petitioner could not have been repatriated back in such improper manner.

While entertaining the writ petition, this Court by an interim order dated 18.6.2013 has directed that the impugned order shall not be given effect to and if the vacancy is available at Tikamgarh, the petitioner be allowed to join on his post at such place.

By making an application, it is contended by the petitioner that though he has joined back, permitted to work at Panna, only because the post at Tikamgarh was not available, but is not being paid any salary which is causing financial inconvenience to him.

A prayer is made before the authorities to make payment of the amount of salary to the petitioner.

By filing the return, it is contended by the respondents that the petitioner though was taken on deputation, but he was required to be repatriated in view of the fact that there were certain other persons who were taken on deputation, who were

shifted from one place to another on their own applications.

In view of this, there was no vacancy to accommodate the petitioner and, therefore, he was relieved to go back and to work in the office of his parent department at Tikamgarh.

This being the situation, it cannot be said that any illegality was committed by the respondents in repatriating back the services of the petitioner.

After examining the documents placed on record with the writ petition as also with the return, it appears that even before repatriation of the petitioner by the respondent No.2, in fact, a posting order was issued by the parent department of the petitioner on 13.7.2012.

It is not clear as to what action was taken thereafter by the respondent No.2 in respect of that order.

In fact, the respondent No.2 has issued an order of posting of petitioner at Tikamgarh on 6.9.2012 Annx.P/6, which order is not disputed by the respondent No.2.

Pursuance to this order, since the petitioner was not being relieved from Tikamgarh, it appears that repatriation order was issued saying that in case the petitioner is not relieved, his salary is not to be drawn from the funds of the respondent No.2.

That being the situation, in fact, the repatriation of the petitioner was not on any justified reason.

However, as has been stated by learned counsel appearing for the petitioner, the petitioner is willing to go back to his parent department, but the only prayer made is that he should be paid the salary of the past period for which though he has worked in the establishment of respondent No.2, but the payment has not been made to him.

Considering the aforesaid, it is directed that the petitioner will be paid the salary with effect from 6.9.2012, till date he is relieved by the borrowing department to

carry out the order dated 13.7.2012 Annx.R/2.

On reporting back in the parent department, the petitioner be posted in appropriate place on appropriate post as per the status of the post of the petitioner by the parent department of petitioner.

It is made clear that the relieving of the petitioner would be ordered by the borrowing department only after making payment of salary of the period he has remained working in the establishment of respondent No.2 as directed herein above, and not otherwise.

With the aforesaid, the writ petition stands disposed of finally.

Certified copy as per rules.

(K.K.Trivedi) Judge A.Praj.

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