

31. 28.08.2025
Court No.8
(Tanmoy)

FMA/633/2021
SUBRATA ROY
VS
UNION OF INDIA AND ORS.
WITH
IA NO: CAN/2/2022

Mr. Biswaroop Bhattacharya
Mr. Victor Chatterjee

...for the appellant/
writ petitioner.

Mr. Dibashis Basu
Mr. Arun Bandyopadhyay

...for respondent nos. 1&4/UOI.

Mr. Anirudhha Chatterjee, Sr. Adv.
Mr. Rahul Karmakar
Mr. Surya Prasad Chattopadhyay

...for National Jute Board.

1. Parties are represented through their respective learned Counsel.

2. With the consent of the parties, hearing commenced. The admitted positions between the parties are that the appellant/writ petitioner, pursuant to his selection joined on deputation on January 7, 2019. The appellant was initially repatriated on September 19, 2019 without giving him three months' notice. The appellant assailed it by filing WP 18772 (W) of 2019 and this Court in view of the said flaw, stayed the effect and operation of the repatriation order. However, during the pendency of the said writ petition, the respondents

by an order dated September 20, 2019 had withdrawn the repatriation order. Accordingly, the aforesaid petition was withdrawn.

3. On October 1, 2019, after the said petition was withdrawn in view of withdrawal of the repatriation order, a fresh order of repatriation was issued against the appellant. This was unsuccessfully challenged by the appellant herein in the second round of writ petition being WPA 21695 of 2019. The impugned repatriation order was issued with the finding that the appellant was found to be “unsuitable”. However, this order regarding “non-suitability” was also withdrawn on December 9, 2019.

4. The learned Single Judge, after hearing both the parties, by order dated March 18, 2021, dismissed the writ petition.

5. Learned Counsel for the appellant submits that the appellant was “selected” on deputation and hence it is not a normal deputation. Reliance is placed on a judgment in the case of **Ashok Kumar Ratilal Patel v. Union of India & Anr.** reported at **(2012) 7 SCC 757**. However, he fairly submits that those three years for which the appellant was sent on deputation are over. The appellant’s rights were protected by the order of this Court passed on November 15, 2021. The clock, admittedly, cannot be

put back by putting the appellant on deputation for those three years for which he was initially selected on deputation. However, since an arbitrary order is passed, this Court can bring the appellant on deputation for remainder of the period.

6. During the course of hearing it is noticed that in opposition to the stay application (page 123 para 7) the respondents averred as under:

*“With regard to the contentions made in paragraphs 13 to 20 of the said writ petition, I deny and dispute all the allegations which is contrary thereto and/or inconsistent therewith, save and except what are matters of record. The said order dated January 17, 2020 has lost its force owing to the **post being rendered redundant due to efflux of time. The said post was required till January 6, 2022 and as such there is no such post as on date.** I deny that the petitioner has any right towards the post as alleged or at all. The instant appeal has become infructuous. The petitioner in any event has not suffered any prejudice.”*

(Emphasis Supplied)

7. Learned Counsel for the appellant, by criticizing the averments of this paragraph, submits that a post cannot become “redundant” in a department.

8. One can understand that the post is filled up or the post is ‘abolished’. The respondents have used a word “redundant” which is unknown to service law.

9. Faced with this, learned Counsel for the appellant prayed for and granted 15 days’ time to apprise the Court with the following information:-

- i) Whether the post in question, namely, Director (Technology & Technical), which was occupied by the appellant is still lying vacant.
- ii) Since the appellant was admittedly occupying the said post on deputation basis, the respondents shall indicate by filing an affidavit about the existence and status of that post.
- iii) In case, the post is filled up or it is abolished, the decision indicating the same shall also be filed along with the affidavit.

10. As prayed for, the affidavit be filed within 15 days by supplying copies to the appellant. Exception (if any), be filed within two weeks thereafter.

11. With the joint consent, list the matter immediately after “Puja Vacation” marked “part-heard”.

(Smita Das De, J.)

(Sujoy Paul, J.)