

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No. 618/2021; CM No. 1852/2021 c/w
WP(C) No. 248/2021; 892/2021

Dated: 24th of August, 2021.

Mushtaq Ahmad Bhat & Ors.

..... Petitioner(s)

Through: -

Mr S. A. Makroo, Senior Advocate with
Mr Danish Yousuf, Advocate.

V/s

Union Territory of Jammu and Kashmir & Ors.

..... Respondent(s)

Through: -

Mr Mohammad Rais-ud-Din Ganai, Government Advocate.

CORAM:

Hon'ble Mr Justice Ali Mohammad Magrey, Judge.

(JUDGMENT)

WP(C) No. 618/2021; CM No. 1852/2021:

01. Impugned herein this Petition is Government Order No. 255-JK(GAD) of 2021 dated 22nd of March, 2021, whereby the Petitioners, employees of Jammu and Kashmir Industries Limited (for short 'the JKI Limited'), have been repatriated to their parent Organization immediately.

02. The Petitioners claim to have been employed in the J&K Cements Limited on various posts. It is stated that the Petitioners rose to their respective levels by the dint of their hard work and were aspiring to achieve higher levels in the JKI Limited, but their dreams were shattered when the JKI Limited, once a profit-making Organization and premier in the field of

Industries, suffered losses, thereby resulting in the Organization having been declared as a 'Sick Industry'. Accordingly, the list of surplus staff is stated to have been furnished to the General Administration Department of the Government of Jammu and Kashmir with the request that the said surplus staff be adjusted/ deployed in other Government Departments so that the expenditure on account of monthly establishment/ salary cost may be reduced. The Government, in the General Administration Department, as stated, took up the matter with the Industries & Commerce Department and, after obtaining the requisite 'No Objection' from them, deployed the aforesaid surplus staff in various Government Departments. It is pleaded that the Petitioners are discharging their duties in the said Government Departments to the best satisfaction of their superior Officers, however, in terms of the Government Order No. 255-JK(GAD) of 2021 dated 22nd of March, 2021, the Petitioners stand repatriated to their parent Organization. It is this Government Order that the Petitioners have called in question before this Court through the medium of the instant Petition.

03. Heard the learned counsel for the parties, perused the pleadings on record and considered the matter.

04. It is admitted position that the Petitioners have been deputed to various Government Departments by the competent authority upon their declaration as surplus staff of the JKI Limited. There is also no dispute with regard to the implication of Article 52(C) of Jammu and Kashmir Civil Service Regulations, 1956 SR to the cases of the employees who have been deputed to various non-Government Organizations, including Corporations,

Companies, Autonomous Bodies, etc., but the Court has to only consider as to what is wrong with the decision of the Respondents in issuing the impugned Government Order, thereby repatriating the Petitioners to their parent Organization/ Department. What is, thus, required to be seen in terms of the applicable laws governing the subject is as to whether the Petitioners have any right to claim continuation in the Government Departments where they have been deputed as 'Deputationists' or, to put in other words, whether the decision taken by the Respondents seeking repatriation of the Petitioners to their parent Department from the Departments where they have been deputed is illegal or unwarranted/ uncalled for.

05. The aforesaid moot question can be answered by the application of the provisions of Article 52 of the Jammu and Kashmir Civil Service Regulations, 1956, itself, which, in no uncertain terms, emphasize that the reversion of a 'Deputationist' can be at any stage, either by the lending or the borrowing Department and that a 'Deputationist' has no vested right to remain on the cadre of the Department where deputed. There, thus, is nothing wrong in repatriation of the Petitioners on the cadre posts of their parent Department which they were holding in substantive position.

06. Apart from the above provisions of the Jammu and Kashmir Civil Service Regulations, 1956, the law on the subject of repatriation/ reversion of 'Deputationists' is no more *res integra*.

07. In '**Kunal Nanda v. Union of India & Anr.; AIR 2000 Supreme Court 2076**', while dealing with the issue as involved herein this Petition, Hon'ble the Supreme Court has observed as under:

“... The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation.”

08. A similar view was also taken by a Coordinate Bench of our own High Court, in the case of **‘Dr. Mohammad Deen v. State of JK & Ors.; KLJ 2000 640’**, while following the law laid down by the Apex Court of the country in Kunal Nanda’s case (*supra*).

09. For the reasons stated above, I do not find any merit in the instant Petition and, as a sequel thereto, same shall stand **dismissed** accordingly, along with the connected CM(s).

WP(C) No. 248/2021; CM No. 892/2021:

10. Although this Petition is shown to be clubbed with the aforementioned Petition, however, the Registry has not tagged the same with the file. Accordingly, this Petition is directed to be delinked and listed separately on 17th of December, 2021.

11. Registry to place a copy of this Order on each file.

(Ali Mohammad Magrey)
Judge

SRINAGAR

August 24th, 2021

“TAHIR”

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| i. | Whether the Order is reportable? | Yes/ No. |
| ii. | Whether the Order is speaking? | Yes/ No. |