

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****CIVIL APPLICATION No. 294 of 2017****IN****ORIGINAL APPLICATION No. 173 of 2016**

Rahul S/o Wamanrao Khodke,  
Aged about : 29 Yrs., Occ. – Service,  
R/o Qtr. No. 6, Chandrabhaga,  
Building, U.O.T.C., Champus,  
Waddhamna Chowk, Surabardi,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra  
through Secretary,  
Home Department,  
Mantralaya, Mumbai-32.
- 2) Additional Director General of,  
Police (Operation), Mumbai.
- 3) Inspector General of Police,  
Antinaxal Operation, Waddhamna Chowk, Surabardi, Nagpur
- 4) Principal,  
U.O.T.C. Campus, Waddhamna Chowk, Surabardi, Nagpur

**Respondents**

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**Shri H.D.Futane, Id. Advocate for the applicant.**

**Smt. S.V.Kolhe, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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## **JUDGMENT**

**(Delivered on 02<sup>nd</sup> day of August, 2017)**

Heard Shri H.D.Futane, Id. counsel for the applicant and Smt. S.V.Kolhe, Id. P.O. for the respondents.

2. The applicant has been appointed as a Police Constable in the establishment of Armed Police Constable. In view of the order dated 20/10/2008. Vide order dated 12/05/2015, the applicant along with some other Constables came to be deputed. He was sent on deputation to U.O.T.C., Nagpur. It seems that in all 62 officers were sent on deputation. Accordingly, the applicant was relieved from the post and joined on the deputed post. Thus, the applicant was initially appointed as Armed Police Constable in S.R.P.F., Group IX, Amravati and was deputed to the office of Commandant, Group IX and deputed to the office of Principal, U.O.T.C., Nagpur as already stated. According to the applicant, the normal tenure of deputation is three years and therefore, the applicant was hoping that he will serve on the deputed post atleast for three years. However, vide impugned order dated 03/03/2016, the applicant's deputation has been cancelled and he has been repatriated on his original post on which he has not completed his tenure of three years and therefore, the cancellation of

his deputation is without following the rules and due procedure. Even though the applicant has been relieved from his post in the office of Principal, U.O.T.C., Nagpur, nobody is posted in his place. The applicant has therefore, claimed that the order of cancellation of deputation or in other words repatriation to his original department dated 03/03/2016 (A-1) issued by Respondent No. 4 i.e. Principal, U.O.T.C., Nagpur, be quashed and set aside.

3. The Respondent No. 4 has filed the reply affidavit and tried to justify repatriation of the applicant. It is stated that while working at U.O.T.C., Nagpur, the applicant was serving in administrative, department wherein he was entrusted with the duty, like main gate guard, quarter guard, campus patrolling. On his own request, the applicant joined on deputation, his services were not satisfactory and therefore, he was repatriated. The conduct of the applicant has been recorded in his service book. The entire reply affidavit shows that the applicant was not properly working on deputation and therefore, his deputation was cancelled.

4. The Id. Counsel for the applicant has placed reliance on the information received by him under Right to Information Act. He submitted that the normal period of deputation is three years and

therefore the applicant should not have been repatriated in the mid-term.

5. Perusal of the repatriation order (A-A-1) clearly shows that it is a simple order of repatriation and it reads as under :-

"mi jkDr fo"A; kUo; sdGfo.; kr ; s' vkgsdh] ; k i f'A{A.A dlnke/; si frfu; Prhoj  
 dk; jr vl ysvki Y; k vLFAki uojhy l 'AL= i ksyhl f' Ai kbz@ 261 jkgy okeujko  
 [AKMds; kuk iz kkl fd; dkj .ALro ; k i f'A{A.A dlnkP; k vLFAki uo: u fnukad 3 ekpl  
 2016 P; k ek/; kUgkuarj i kl u R; koseG ?AVdkr i jr dj.; kr ; s' vkgs"

The said order shows that the applicant was sent on deputation on administrative ground. There is no mention of specific period as to for what period the deputation order will be valid. Admittedly, number of officers were sent on deputation and thus deputation was in the interest of administration, for which consent of the employees were also obtained and vide impugned order of repatriation, the deputation has been cancelled.

6. In the reply affidavit filed on behalf of Respondent no. 4, specific instances have been stated which had forced the Respondent's authority to cancel deputation and to repatriate the

applicant. The said instances are in para nos. 4 to 8 and they are as under:-

"4. That the Applicant's previous history in the service book is not satisfactory. The details of the same are given as under:-

a) While serving as Armed Police Constable in S.R.P.F. Group-IX, Amravati he proceeded on 4 days casual leave from 21.02.2010 to 24.02.2010 and he remained absent for 55 days till 16.04.2010 without any intimation.

b) The applicant from 17.06.2012 to 20.06.2012 was remained absent from duty without any information as such the said period was treated as without pay.

c) That the Applicant in his letter dated 09.02.2016 has wrongly stated that, he went on sick for the first time whereas earlier also i.e. from 08.03.2013 to 03.04.2013, he reported to be on sick for 27 days. The copy of the extract of the service book is annexed herewith as **Annexure-R-2**.

d) That the Applicant remained absent without any information on various following occasions.

i) 12.12.2014 for 1 day.

- ii) 05.05.2014 to 09.05.2014 for 5 dyas.
- iii) 08.01.2015 to 09.01.2015 for 2 days.

The Applicant every time because of his wilful absent got himself without pay leave. From the above said facts it is apparent that, the Applicant is habitual in remaining absent and taking the organisation on ride all the while. The copy of the relevant part of the service book is filed here with as **Annexure-R-3.**

e) That the Applicant while serving in the "C" Company of S.R.P.F., Group-IX, Amravati. The Company was deployed for an important task at Gadchiroli on 05.05.2014. At the time of Company movement to Gadchiroli from Amravati Head Quarter, the Applicant wilfully disobeyed the order of movement to avoid important duty and reported sick for no reason. The applicant was put under suspension from 05.05.2014 to 24.06.2014. The copy of the relevant part of the service book showing suspension is annexed herewith as **Annexure-R-4.**

5) That the applicant on 15.12.2015 approached to the Medical Officer at U.O.T.C. Hospital for Knee pain/sprain. He was referred to the Lata Mangeshkar Hospital for further treatment. On the same day where as the Applicant turned

up at Lata Mangeshkar Hospital on 17.12.2015 where he asked for treatment of Right Ankle. He was treated at Lata Mangeshkar Hospital for Right Ankle twist of pain but not advised for rest of any kind by the concern Medical Officer. The copy of the Medical Report is collectively annexed herewith as **Annexure-R-5**.

It is submitted that, after two weeks time he again turned up at O.P.D., Lata Mangeshkar Hospital for the same treatment of Right Ankle. The concerned Medical Officer continued his treatment and advised him 11 days rest. It is submitted that, just after completion of 11 days rest period the Applicant was supposed to report at Lata Mangeshkar Hospital for further treatment but he did not do so, instead on 12.01.2016 he approached to the Medical Officer at U.O.T.C. Dispensary with complaint of "Piles" which if he was genuinely suffering the same treatment could have been started with the Ankle Pain. That the Applicant was referred to get the treatment of piles at Lata Mangeshkar Hospital, but the Applicant obtained the treatment from Private Homeopathic D.H.M.S. Doctor on 02.02.2016. That the Applicant obtained the fitness certificate from Lata Mangeshkar Hospital and reported for duty on 03.02.2016 which does not bear the stamp or the name of Doctor and even spelling of fitness is wrong. The copy of the said certificate is annexed herewith as **Annexure-R-6**.

7. It is submitted that, during the above said sick period the Applicant was moving freely in the campus as well as outside the campus. But the Applicant did not bothered to inform the office about his sickness or his prolong absence from duty. Not only that, during his sick period he was carrying out the business of vegetable sale in the weekly market along with his parents. This fact was noticed by the Vice Principal personally in the market. That the U.O.T.C. is the premier institute of Maharashtra State which provides the training for Jungle Warfare to Commandos of Maharashtra State Police. The institute is not provided with its own manpower. The persons who are not disciplined sets a wrong example are sent back to their Parent Unit. At present there are 61 vacancies which are to be filled in from deputation and the process is going on. All the Police Personals except the Ministerial Staff and Class-IV are on deputation from various S.R.P.F. Groups and District Police of States.

8. That the persons joining here on deputation is entrusted with specific job of providing training to Commandos or looking after the security of campus and in case he is not found fit for any reason, he is sent to his Parent Unit.



9. That the Applicant was assigned the duty under the Administrative Wing and was entrusted with the duty of Campus Security and Administration Work. That the Applicant when posted to U.O.T.C., Nagpur on 15.05.2015, he was occupying government accommodation at Amravati. The copy of the Accommodation Letter is annexed herewith as **Annexure-R-7.**

10. That the Applicant applied for married accommodation at U.O.T.C., Nagpur vide his application dated Nil. The Applicant was allotted married accommodation vide U.O.T.C. letter dated 04.07.2015. A copy of the said letter is annexed herewith as **Annexure-R-8.** It is further submitted that, the Applicant did not vacate the married accommodation at Amravati knowing fully well that he cannot keep two government accommodations at one time. This also shows his indiscipline towards the organization. In view of the facts mentioned hereinabove paras the tendency of the applicant of taking the system for ride and remaining absent from duty without providing any information. It has become imperative to repatriate the Applicant back to his Unit for the sake of organization and maintained the highest standard of Institute."

7. In the rejoinder affidavit, the applicant stated that the respondents are showing the instances of his remaining absent which pertain to the years 2010, 2012, 2013. He has also justified his absence on the medical ground. It is further stated that there are 61 vacancies on deputation and the applicant would have been easily accommodated on the said vacancy. In my opinion, there is some purpose for sending the employees on deputation and if that purpose is not served, because of the conduct of the employee, the Respondents authority cannot be forced to continue deputation. The instances stated in the reply affidavit are sufficient to come to a conclusion that the work of the applicant was not satisfactory while on deputation. The Respondents authority had not repatriated the applicant as a punishment, since the order of repatriation is a simple order of repatriation. No allegations are made. It seems that the Respondent authority has considered the administrative convenience and the conduct of the Respondents.

8. The Id. Counsel for the applicant has relied on the Judgment delivered by the Hon'ble Bombay High Court Bench at Aurangabad reported in 2012(3) Bombay Case Reporter 442, in case of **Purushottam Govindrao Bhagwat Vs. State of Maharashtra and others.** It is in respect of transfer and provisions of **Section 4(1) & 5**

of the Maharashtra Government Servant Regulation of Transfer and Prevention of Delay in Discharging of Official Duty Act, 2005. In my opinion, the said Judgment cannot be applicable to the present set of fact, because (1) it is not the order of transfer, (2) the applicant is not repatriated as a punishment.

9. The Id. Counsel for the applicant also submitted that as per Rule 36 of *"The Maharashtra Civil Services (Joining Time, Foreign Service And Payments During Suspension, Dismissal And Removal) Rules, 1981"* no government servant be transferred to foreign service against his will and therefore, the applicant should not have been transferred to his original department against his will. Rule 36 cannot be applicable in the present case for the reasons that the applicant has not been transferred to foreign services, but he has been repatriated to his original department and secondly since the applicant has joined the service after 30 July, 1977, Rule 36 is not applicable in the case of applicant.

10. On going through the order of repatriation as well as considering the statements made in the reply affidavit which are already reproduced in the earlier paras, I don't find any reasons to interfere in the decision taken by the Respondent no. 4, merely

because the applicant has been repatriated in the original department prior to three years. In para no. 12 of the reply affidavit, it is stated that out of 62 employees who have joined U.O.T.C. on deputation, 33 employees were repatriated to their parent units during the period from 01/01/2010 to 11/03/2016 and some employees who have completed 10 years of deputation, are being repatriated. They are also being relieved subject to suitable manpower in their place.

11. In view of the discussion in foregoing paras, I, therefore, don't find any merit in the O.A. Hence the following orders:-

**ORDER**

- 1) The O.A. stands dismissed.
- 2) No order as to costs.

**(J.D. Kulkarni)**  
**Vice-Chairman (J).**

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