

SUPREME COURT OF INDIA

K. Phani Ramesh

Vs.

Dy. Director Navodaya Vidyalaya

(S R Babu and R Pal JJ.)

15.01.2002

ORDER

1. The appellant before us was working as a physical education teacher-cum-coach in St. Ann's High School at Nuzvid. Applications were invited by Navodaya Vidyalaya Samiti for deputation of teachers, working in private schools. The appellant made an application on consent being given by the St. Ann's High School and he joined duty as a physical education teacher on 23rd November, 1991 in Navodaya Vidyalaya at Ongole. On November 11, 1993 orders were passed repatriating the appellant to his parent department whereupon he was relieved from this post. When he reported for duty with 3rd respondent the principal refused to take him on duty as the period of deputation from the school was over on 6.10.1993 and he had not been repatriated before that date. Aggrieved by this action, the appellant preferred a writ petition in the High Court.

2. The learned single judge of the High Court being of the view that the appellant was to be taken on deputation for the period of two years and at the end of which he will be repatriated to his parent department and that his lien would be available only for that period but when the appellant was repatriated by Navodaya Vidyalaya Samiti, he had no right to continue in that institution. Therefore, the order directing him to repatriate to his parent department on completion of his period of deputation is justified and the 3rd respondent is justified in not keeping lien open after expiry of two years after his deputation. This order was upheld on appeal to division bench. Hence, this appeal by special leave.

3. The grievance of the appellant is that the appellant had been deputed and that he had lien over the post with 3rd respondent which was available for a period of two years from the date of deputation and that period not having elapsed when he went back, his parent employer's refusal to take him back on employment is bad. The facts cannot be disputed. If that is so, he should have been employed in the St. Ann's High School on repatriation. The approach of 3rd respondent is too technical and when this appellant's repatriation came to an end, he should have been accommodated in the parent department. The lien in the post is commensurate with his deputation which came to an end on 11.11.1993. Though the appellant had been sent on deputation by the 3rd respondent on 6.10.1993 that term actually came to an end on 11.11.1993. In the result, we direct the 3rd respondent to take back the

appellant in employment in its institution. However, he will not be entitled to any back wages. The order made by the High Court is set aside and the appeal is allowed accordingly.