

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P.No.3153 of 2021

Robina Kousar

**Versus**

Federation of Pakistan through Ministry of Federal Education and  
Professional Training and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>13.09.2021</b>	<b>Syed Khawar Ameer Bukhari, Advocate for the petitioner.</b>

Through the instant writ petition, the petitioner, Mrs. Robina Kousar, impugns the office order dated 16.08.2021 issued by the Federal Directorate of Education ("F.D.E.") whereby she was repatriated to her parent department (i.e. School Education Department, Government of Punjab, Lahore).

2. Learned counsel for the petitioner submitted that the petitioner was sent on deputation to the F.D.E. on the basis of wedlock policy; that vide office order dated 14.05.2018, the F.D.E. extended the petitioner's deputation period for two years i.e. upto 04.05.2020; that under the wedlock policy, the petitioner's deputation period could have been further extended for another two years; that the School Education Department, Government of Punjab should have acceded to the request made by the Ministry of Federal Education and Professional Training for the extension of the petitioner's deputation period beyond 04.05.2020; and that since the petitioner's husband resides at Islamabad, she has the legitimate right for her deputation period to be extended. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

4. On 04.04.2017, the petitioner's parent department issued a No Objection Certificate ("NOC") for her transfer on deputation basis to the F.D.E. for an initial period of three years. Vide letter dated 17.04.2017, the F.D.E. posted the petitioner as a Trained Graduate Teacher (BPS-16) in the F.D.E. In the said letter, it was clearly mentioned that on completion of her deputation period, she will stand repatriated to her parent department without any notice. Vide office order dated 15.05.2017 issued by the F.D.E., the petitioner was posted as a Trained Graduate Teacher (BPS-16) in the Islamabad Model School (I-V) No.1, G-10/2, Islamabad. In the said order, it was mentioned that on the expiry of one year of the deputation period, the petitioner shall automatically stand repatriated to her parent department. Vide office order dated 14.05.2018, the petitioner's deputation period was extended upto 04.05.2020. There is no order whereby the petitioner's deputation period was extended beyond 04.05.2020. However, vide letter dated 12.03.2020, the Ministry of Federal Education and Professional Training had requested the School Education Department, Government of Punjab to issue an NOC for an extension in the petitioner's deputation period for two years i.e. from 05.05.2020 to 04.05.2022. Vide order dated 03.06.2021, the School Education Department, Government of Punjab directed the petitioner to report back to her parent department. Since no order had been passed for the extension of the petitioner's deputation period beyond 04.05.2020 in the said order, it was clarified that the period beyond 05.05.2020 and the date of her repatriation would be treated as an extension in her deputation period. Consequently, vide impugned office order dated 16.08.2021 issued by the F.D.E., the

petitioner has been repatriated to her parent department. The said office order has been assailed by the petitioner in the instant writ petition.

5. The F.D.E.'s letter dated 17.04.2017 whereby the petitioner was posted on deputation basis in an educational institution under the F.D.E. clearly provided that she will stand repatriated to her parent department on completion of her deputation period. The petitioner was also required to submit an undertaking to the effect that she will not claim permanent absorption in the F.D.E. Although the petitioner's deputation period had been extended upto 04.05.2020 but she continued to serve as a deputationist in the F.D.E. without a formal order extending her deputation period beyond 04.05.2020. Since vide order dated 03.06.2021, the petitioner has been directed to report back to her parent department, the request for an extension of her deputation period would be considered as turned down by the parent department. It is my view that the petitioner's parent department has extended a favour to her by treating the period beyond 04.05.2020 until her repatriation to be an extension in her deputation period.

6. It is settled law that a deputationist may not necessarily complete the tenure for which he was sent on deputation and the power vested with the competent authority to repatriate a deputationist without assigning any reason. In case of transfer on deputation, no vested right accrued to a deputationist to continue for the period of deputation. The competent authority was empowered to repatriate a deputationist as and when the exigencies of service required. Some of

the cases in which this view has been taken are mentioned herein below:-

- (i) In the case of Pakistan Vs. Fazal Rehman Khundkar (PLD 1959 Supreme Court (Pak.) 82), it has been held by the Hon'ble Supreme Court of Pakistan that it is a matter of practice and common experience that officers of the Provincial cadres deputed for service at the Centre are frequently recalled by their Province, by the Provincial Government, in the exigencies of the public service. Against such a recall they have no right of any kind to object, being substantively officers of the Provincial Government and only on deputation to the Centre. The mere fact that they may be holding at the Centre a post higher in rank than that to which their place in the Provincial cadre entitles them in the Provincial service does not constitute the least bar to the making of an order by the Central Government at the request of the Provincial Government, re-placing the services of such an officer at the disposal of his parent Government.
- (ii) In the case of Dr. Shafi-ur-Rehman Afridi Vs. CDA, Islamabad (2010 SCMR 378), it has been held by the Hon'ble Supreme Court of Pakistan that the provisions of Civil Servants Act, 1973, and rules made thereunder, as well as Esta Code were silent about the fact that a deputationist must serve his entire period of deputation and such omission seemed deliberate enabling the competent authority to utilize service of an employee in the manner as it might deem fit and proper. Period of deputation could at the best be

equated to that of an expression of maximum period which could be curtailed or extended by competent authority and no legal or vested rights were available to a deputationist to serve his entire period of deputation in borrowing department.

- (iii) In the case of Mst. Robia Ayub Vs. Federation of Pakistan (2013 PLC (C.S.) 915), it has been held by this Court that a deputationist cannot remain on deputation for an indefinite period or stipulated period in accordance with his/her own whims and wishes. Civil servant has no vested right to complete the deputation period as it is a matter relating to the terms and conditions of service. Competent authority of borrowing department having sole discretion to decide fate of deputationist could repatriate him at any time to parent department.
- (iv) In case of Abdul Majeed Vs. Chief Secretary, Punjab (2015 PLC (C.S.) 1381), it has been held by the Hon'ble Lahore High Court that a deputationist did not have any vested right to remain on the post as deputationist forever or for a stipulated period. A deputationist could be ordered to be repatriated to his parent department at any time without assigning any reason. Parent department of appellant-employee was not bound to assign reason for his repatriation.
- (v) In case of Lal Khan Vs. Employees Old Age Benefit Institution (2010 PLC (C.S.) 1377), it has been held by the Hon'ble High Court of Sindh that a deputationist had no vested right to remain on post forever or for a stipulated period. A deputationist could not

challenge order of his repatriation as he could be repatriated to parent department at any time.

7. On account of the above referred trite law, the petitioner could not have any grievance against her repatriation by the borrowing department to her parent department. Another vital question that needs to be answered is whether the petitioner could have invoked the Constitutional jurisdiction of this Court to prevent her repatriation to her parent department. The law in this regard is also well settled. In the case of Dr. Shafi-ur-Rehman Afridi Vs. CDA, Islamabad (2010 SCMR 378), it has been held by the Hon'ble Supreme Court of Pakistan that a deputationist cannot be treated as an 'aggrieved person' because he has no vested right to remain on a post as deputationist forever or for a stipulated period as mentioned in notification and can be repatriated at any time. At no material stage, has the petitioner been absorbed in the borrowing department.

8. Another question that needs to be determined is whether a person posted on deputation at a particular station can claim to remain so posted for all the period during which his or her spouse remains employed at such a station. It is indeed not pleasant for a husband and wife to be working at different stations but the law cannot be circumvented to bring them to the same station. To hold in favour of such a deputationist would be tantamount to disregarding the innumerable authorities from the Superior Courts holding that no legal or vested rights were available to a deputationist to serve in the borrowing department for an indefinite period. In the case of Mst. Robia Ayub Vs. Federation of Pakistan, (2013 PLC (CS) 915), the petitioner had challenged the repatriation

to the parent department on the ground that it was contrary to *inter alia* the wedlock policy. The petitioner in that case had also prayed for a direction to the borrowing department to absorb her. This Court dismissed the writ petition by *inter alia* holding that the petitioner's claim on the basis of the wedlock policy was not justifiable. Furthermore, it was held as follows:-

*"10. The law on the subject is very much clear. The petitioner is a civil servant and remained on deputation for a fixed term and was returned to her parent department in consequence of terms and conditions of her deputation. A deputationist cannot remain on deputation for an indefinite period or stipulated period in accordance with his/her own whims and wishes. While taking this view, I am fortified by a judgment rendered by the Hon'ble Apex Court in the case of Dr. Shafi-ur-Rehman Afridi v. CDA Islamabad through Chairman and others (2010 SCMR 378)."*

9. Additionally, in the case of Asma Shaheen Vs. Federation of Pakistan (2013 PLC (C.S.) 391, this Court spurned the plea that a deputationist cannot be repatriated due to the wedlock policy. At paragraph 13 of the said judgment, it has been held as follows:-

*"13. From the plain reading of above said wedlock policy, it is obvious that the word "may" has been used in the said letters and not "shall". It has never been stressed that all the deputationists whose spouses are working at Islamabad shall must be absorbed or will continue to serve at Islamabad. As regards the contention that some of deputationists have been absorbed, the same cannot be taken into consideration, for the simple reason that it was the discretion of the competent authority to absorb some of deputationists according to requirement of department, capabilities, know how, performance, qualification, general reputation and on the basis of annual confidential reports. The others cannot claim the same treatment as of right. The deputation is a contract and if borrowing department does not need the services of a deputationist, he or she must go back to parent department and thus no fundamental rights of the petitioners have been infringed and no provisions of Constitution have been violated. Learned counsel for the*

*petitioners have failed to rebut the contention of learned Deputy Attorney-General that at present no deputationist is being absorbed. There appears no political element with regard to repatriation of the petitioners to their parent departments.”*

10. In view of the above, I do not find any merit in this petition, which is accordingly dismissed in limine.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Sultan\*