

LEGALFOXES LAW TIMES

CASE COMMENT ON SARITA SINGH V M/S SHREE INFOSOFT PRIVATE LIMITED, 2022.

BY SANDHIYA KRISHNAN S.

- Citation: 12th January 2022
- Bench: D.Y. Chandrachud and A S Bopanna
- Date of judgment: 12/01/2022
- Appellant: Sarita Singh
- Respondent: M/s Shree Infosoft private limited

FACT OF THE CASE

1. The Appellant is a software developer who joined the service on 15th November 2012 with an annual package of Rs. 13,50,400. The respondent is a software development-focused business with headquarters in Gurgaon.
2. Sarita was sent to the US for a meeting on 22.08.2013 for a tenure of one week. The expenses were incurred and paid by the employer and tickets were made on the company's behalf. Initially, the meeting was planned for only one week but unfortunately, it was extended to more than 22 days. She returned to India and started work on 21st September 2013. And she worked in the same position as she worked before the meeting and on 27.09.2013 she was appointed as a project manager with a revised salary package of 16 lakh per annum.
3. There are some conditions made by the company in the offer letter related to the deputation and employment workplace of the employee. It stated that the employee can be employed in any division of the company which may be the branch or subsidiaries or affiliates, or associates of the parent company or the company where the employee

approached and got training. And under clauses 3 and 4 of sec 2 of other terms and conditions, the employees must abide by the rules of the company in case of overseas deputation.

DEPUTATION PERIOD	SERVICE MUST BE DONE BY THE EMPLOYEE TO THE PARENT COMPANY AFTER DEPUTATION
0-30 days	3 months of work to parent company after return from deputation
30-90 days	6 months of work to parent company after return from deputation
More than 90 days	12 months of work to parent company after return from deputation

4. She worked in the petitioner company for 82 days from the return date of boarding i.e. from 21.09.2013 to 12.12.2013. She submitted her resignation because of the problem faced by her as a project manager and also because she was not treated properly by the company as well as by the working environment. She gave her resignation letter and resigned on 12.12.2013. On 14th Dec, she was informed by the company that her resignation was accepted and it would be facilitated by the Human Resources Department.
5. On 18.12.2013 she sent a letter to the company through the mail for further formalities to be completed by her. And on counter mail by the company, she was informed that her resignation was accepted by management.
6. On 22.05.2014 a legal notice was sent from the petitioner company calling upon the appellant to pay a total of Rs 5,70,753 with an interest rate of 24% per annum from 12.12.2013. This total amount is the sum of her ticket charge for the US meeting,

accommodation charge, and subsistence expenses and also includes all the allowances met by her and which were paid by the company. It also includes the amount for overseas deputation and salary for the notice period.

7. A counter-notice was made by the appellant through an advocate to the respondent on 3rd June 2014.

ISSUES RAISED IN THIS CASE

1. Whether the plaintiff, M/s Shree infosoft private limited entitled to a decree for recovery of Rs. 5,70,753/- along with the interest at the rate of 24% per 2 of 5 annum from the date of suit till realization?

JUDGMENTS MADE BY THE LOWER COURT AND THE HIGH COURT

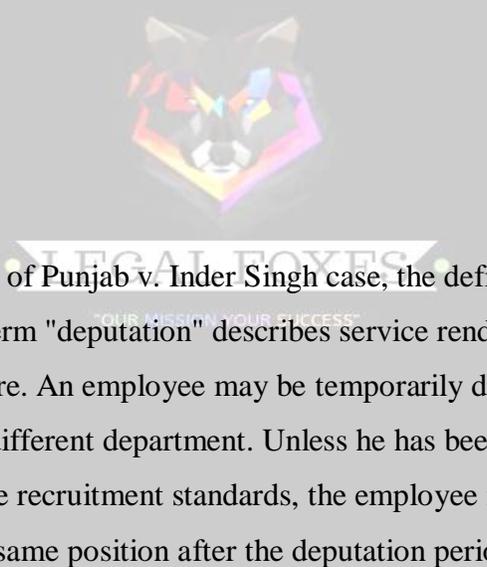
After considering the evidence, the senior division civil judge of the Gurgaon court decided in favor of Shree infosoft private limited and rendered a judgement. In accordance with this ruling, the defendant was required to pay compensation of Rs. 5, 70,753 plus interest at a rate of 24% annually. A Gurgaon junior division civil judge reduced the compensation to Rs. 3, 14,159 with 9% interest per year on August 9, 2016. The total cost of travel and lodging is included in this amount.

The Additional District Judge in Gurugram upheld the decision of the trial judge in an appeal on November 29, 2017. By virtue of the contested decision and order, the High Court's second appeal has been rejected on 1st Aug 2018.

JUDGEMENT MADE BY SUPREME COURT

According to the Supreme Court, Sarita Singh, the appellant, was not obligated to pay the necessary damages as determined by the trial court, and the High Court. And the appellant has endured pointless intimidation and been dragged into a legal minefield. Her workplace atmosphere was a source of worry for her. She protested, quit, and was then subjected to retaliation by becoming involved in a lawsuit for compensation. Unambiguous statements from the courts must make it clear that this type of behavior will not be accepted. This will enable the appellant to recover the expense of the lawsuit of about Rs 1 lakh

They made this following judgment by citing the State of Punjab v. Inder Singh, Umapati Choudhary v. State of Bihar, and Union of India v. S N Maity. Views of judges made in this case are

- 
- According to the state of Punjab v. Inder Singh case, the definition of Deputation was well explained. The term "deputation" describes service rendered outside of the parent department or the cadre. An employee may be temporarily deputed to a position outside of their cadre or to a different department. Unless he has been promoted during that time in compliance with the recruitment standards, the employee must return to his parent department to fill the same position after the deputation period has ended. Whether a move is outside the employee's typical field of deployment depends on the authority in charge of the service or job the person is leaving. There can be no deputation without the consent of the person being deputed; as a result, he would be informed of his rights and privileges in the deputation job.
 - The Umapati Choudhary v. The State of Bihar case stated that the Deputation involves a third party and the borrowing employer has the rights and liabilities towards the lending employer and the lended employee. Deputation means a process where an employee from a cadre or an organization or a department is commonly referred to as a lending

organization or company to another department or a cadre or an organization which is commonly known as the borrowing authority. Sending someone on deputation becomes required to meet the demands of public service. The concept of deputation is mutual and comprises both the borrowing employer's acceptance of those services and the lending employer's free option to lend his employee's services. Obtaining the employee's consent to serve on deputation is another requirement. In this case, all three requirements were satisfied.

- The Union of India v. S N Maity case held that the deputation was strictly enforced, and the employer was not allowed to behave arbitrarily. Justice Dipak Misra noted that the above-mentioned legal principles will serve as the standard for deciding the dispute that has emerged in this instance. We have already mentioned that this is not a simple migration. In this situation, it is impossible to compare a move while on deputation to a comparable post moving from one cadre or department to another. It does not constitute a delegation from one government to another or from one government agency to another. The fact that the position is under a separate category and the initial applicant went through the complete hiring procedure is undeniable. When the notification of appointment is carefully read, it becomes clear that the post is for a set term of five years unless it is canceled. However, this restriction cannot be enacted randomly or capriciously. There must be an explanation. The use of the phrase "until further orders" by itself would not permit the employer to behave arbitrarily. Unless it is stopped, years. However, this restriction cannot be enacted in a random or capricious manner.
- These decisions validated the following points, which are essential for deputation. That is, a tripartite agreement must be formed between the employee, lending employer, and borrowing employer. It should be a written agreement in which the delegation is fully stated and the contract length is specified.
- In this case, the appellant was away at a meeting in the US. Deputation is not the same as someone who was going to a meeting. Additionally, the appellant's deputation is not stated in any written agreement. She is therefore exempt from responsibility for the issues raised in the appeal.

CONCLUSION

In the case of Sarita Singh v M/s Shree Infosoft Private Limited Supreme court considered the consequences for both parties and gave a good decision on it. And it is clear from the judgment that, in some cases, merely providing for deputation by adding a single clause to the employment agreement may not be enough to establish delegation. To limit risk in such circumstances, it is therefore advisable for an employer to appropriately take into account the aforementioned factors. And in my opinion, if that business sued Sarita over the notice period, they would be able to get the appropriate compensation.

