

Central Adminisrative Tribunal
Principal Bench

O.A.No.698/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 19th day of May, 2003

Shri N.K.Mathur
s/o Late Shri Kishan Chand Mathur
K-14, Second Floor
South Extension, Part-I
New Delhi - 110 049. ... Applicant

(By Advocate: Sh. Vinay Mohan Sharma)

Vs.

1. Union of India through
its Secretary
Ministry of Telecommunication
Sanchar Bhawan
20, Ashoka Road
New Delhi.
2. Director General
Department of Telecommunication
Sanchar Bhawan
20, Ashoka Road
New Delhi.
3. Additional Director General (C.W.G.)
Department of Telecommunication
20, Ashoka Road
Sanchar Bhawan
New Delhi.
4. Superintendenting Engineer (Civil) (Co-ord)
Telecom Civil Circle
A-2/E-2, Curzon Road Barracks
New Delhi - 110 001.
5. Director General
All India Radio
Akashwani Bhawan
New Delhi.
6. Chief Engineer (Civil)
Civil Construction Wing
All India Radio, P.T.I. Building
Second Floor
New Delhi.
7. Chief Engineer (Civil)
Department of Telecommunication
3rd Floor, Telephone Exchange Building
Near Jawahar Lal Nehru Stadium
New Delhi. .. Respondents

(By Advocate: Sh. Neeraj Goyal, proxy of Shri Adish C. Aggarwal).

ORDER(ORAL)

By Shri Shanker Raju, M(J):

Applicant, through this OA, impugns respondents' order dated 25.11.1994 as well as 23.8.2001 wherein his resignation has been accepted retrospectively. He seeks reinstatement with all consequential benefits or in the alternative, acceptance of his resignation from the date of its acceptance, i.e., 23.8.2001 with all consequential benefits.

2. Applicant was appointed as Assistant Engineer (Civil) on deputation in AIR, Civil Construction Wing w.e.f. 29.5.1982. Due to unavoidable domestic circumstances by his letter dated 11.4.1988 he tendered his resignation which was forwarded to his parent department. Applicant was repatriated to Posts & Telegraph Department on 14.12.1988.

3. As the applicant's resignation was not accepted, he approached this Court in OA 779/90 for a direction to respondents to accept his resignation. By an order dated 1.8.1994, respondents have been directed to dispose of the prayer of applicant for resignation within the period of three months specifying the date from which the resignation becomes effective and thereafter to release his dues. In compliance thereof, respondents by an order dated 25.11.1994, accepted the resignation of applicant w.e.f. 11.4.1988.

4. Applicant approached this Court again in OA 1757/2001 wherein directions have been issued to dispose of the representation of applicant. In

compliance thereof, in supersession of Office Order dated 25.11.1994 resignation of applicant has been accepted w.e.f. 14.12.1988, i.e., the date of his repatriation to parent department and is not reporting back to the parent department, giving rise to the present OA.

5. Learned counsel for applicant by resorting to decision of this Court in Division Bench in Smt. Bimla Devi v. Union of India & Others, SLJ 1992(2) CAT 310 contended that resignation become effective from the date of its acceptance and not from the date it was tendered. As by the impugned order the resignation has been accepted by an order dated 23.8.2001 w.e.f. 14.12.1988, the effective date of resignation is 23.8.2001 and the applicant is entitled for continuance in service and pensionary benefits as per the entitlement under the Rules.

6. Moreover, it is stated that from 1988 onwards, applicant has not been assigned any work by the parent department and this resulted him in not joining the duties.

7. On the other hand, respondents' counsel vehemently opposed the contentions and stated that applicant who was still on deputation addressed his resignation letter to the appointing authority in parent department. In pursuance of directions in OA 779/90 his resignation was accepted on 25.11.1994 w.e.f. 11.4.1988 as the applicant after 11.4.1988 till 25.11.1994 had not shown any intention to withdraw his resignation. However, in the light of

the directions contained in subsequent OA, the effective date of resignation was revised to the date of his repatriation, i.e., 14.12.1988. In the earlier OA, i.e., 779/90 applicant has not assailed his resignation and rather prayed for acceptance of the same as such it is not open for him now to assail the resignation.

8. Moreover, learned counsel for respondents further stated that in any event, if the resignation is to be treated effective from the date of acceptance, earlier order dated 25.11.1994 is the date for acceptance and in that event, as applicant had not joined the parent department without any just cause and has not assailed his non-joining before this Court, he is not entitled for any consequential benefits and the aforesaid period is forfeited as per Section 26 of the CCS (Pension) Rules, 1972.

9. I have carefully considered the rival contentions of the parties and perused the material on record.

10. The apex Court in Union of India v. T. Partha Sarathi, 2001(1) SCC 158 held that resignation is effective from the date of its acceptance. Having regard to the aforesaid, applicant who was still under deputation, has sought resignation w.e.f. 11.4.1988 which was duly accepted by an order dated 25.11.1994. Subsequently, the aforesaid order was revised and was made effective from the date of repatriation, i.e., 14.12.1988. Even if the resignation is deemed to be accepted from the date of acceptance, the resignation

is accepted on 25.11.1994, the effective date, i.e., 11.4.1988. In so far as the intervening period between 1988 and 1994 is concerned, applicant had not assailed the same, before this Court either for reinstatement or consequential benefits. Moreover, no intention has been shown by the applicant during this interregnum to either withdraw it or for his reinstatement. No letter or prayer has been made to respondents in this regard. As the resignation has not been revoked, the same is effective from the date, i.e., 25.11.1994 and as the applicant has not joined duties, during this period, the aforesaid period cannot be treated as spent on duty for all practical purposes.

11. What has been revised in the impugned order is the date of effectiveness of the resignation, i.e., 14.12.1988, i.e., the day when the applicant was repatriated. As the applicant, during this interregnum, had not reported to duty, he cannot get any premium for this period. Had there been the intention to take back the resignation or to get the date modified, the contention put forth would be of any relevance. As the resignation for all practical purposes has become effective from 25.11.1994. As regards the interregnum period till the date of repatriation is concerned, as per Rule 26 of the Pension Rules ibid, on resignation qualifying service gets forfeited and the pensionary benefits are not admissible to a Government servant.

12. In the result, for the foregoing reasons, I do not find any infirmity in the order passed by respondents. OA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

/rao/