

Central Administrative Tribunal
Principal Bench

O.A. No. 1316 of 1998

New Delhi, dated this the 22nd July, 1999

10

HON'BLE Mr. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Mehboob Aslam Khan,
S/o Shri Mehfooz Aslam Khan,
R/o D-1/192, Vinay Marg,
Chanakyapuri,
New Delhi-110021.

... Applicant

(By Advocate: Shri G.P. Sharma)

Versus

1. The Superintendent of Police,
Special Poilice Establishment,
Central Bureau of Investigation,
Dhanbad Branch, Dhanbad,
Bihar.
2. Superintendent of Police (HQ),
Central Bureau of Investigation,
Administrative Division,
Block No.3, CGO Complex,
Lodi Road,
New Delhi-110003.
3. Government of India through
the Secretary,
Ministry of Home Affairs,
New Delhi.

... Respondents

(By Advocate: Shri S.K. Gupta)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents orders dated 3.6.98 (Annexure 1) accepting his resignation w.e.f. 3.6.98. He seeks being taken back in service and transfer from Dhanbad to Delhi.

2. Applicant's case is that he was appointed as a constable in Delhi Police Special Establishment of CBI on 5.6.97 in a temporary capacity vide Office Order No. 728/97 (Ann. B). He contends that at the start of his service itself

2

on 4.6.97 when he met Shri M.K. Jain, Motor Transport Office for his joining, that officer took a dislike to him. However, on 17.6.97 he was sent for one month's basic training at CBI Academy, Ghaziabad, where he so distinguished himself that he was one of the four trainees selected for retention in the Academy (Ann. C). He, however, alleges that because of Shri Jain's animosity towards him, he was ordered to be transferred to CBI (ACB), Patna on 21.7.97 (Ann. D), which was later, by order dated 21/8/97 (Ann. E) modified to CBI (Animal Husbandry Dept.) Patna, although according to him there was no vacancy there. He states that he was given an assurance that he would be adjusted against an existing post of computer operator, but all of a sudden was ordered to be transferred to CBI (AH Dept.) Dhanbad vide order dated 17.11.97 (Ann. F), where he joined duty.

3. Applicant alleges that his immediate superior was one Shri K.N.Singh, Duty Officer who was prejudiced towards him on account of his religion and harassed him in many ways, including not permitting him to offer Friday prayers (Namaz) between 1 & 2 P.M. He states that he thought of conveying his grievance to the Supdt. of Police but did not do so because of the influence that the Duty Officer had on the S.P. He states that he prayed for casual leave to avail of Eid, but that was refused, and similar applications for casual

leave on other important occasions were also refused, without reason which led him to become dejected, frustrated and depressed.

2

4. He contends that on 23.3.98, his aged mother was operated upon in Delhi, but even at such a critical moment his application for leave was turned down callously. He states that he could not put up with his behaviour on the part of respondents, and remained depressed for 2-3 days upon which he wrote a transfer letter as 24.3.98 and a resignation letter on 25.3.98, but providentially succeeded in regaining his mental balance and withdrew his resignation letter on 30.3.98. He states that on 2.5.98 he applied for 5 days C.L. supported by a telegram stating 'Mother serious' but the leave application was treated negligently, upon which in a state of great worry and despondency he left for his home upon which respondents issued impugned order dated 3.6.98 which he received on 16.6.98.

5. Applicant stoutly denies that he ever submitted any resignation letter on 25.5.98, and therefore contends that the impugned order dated 3.6.98 communicating acceptance of his resignation letter dated 25.5.98 is malafide, illegal and arbitrary.

6. Respondents in their reply deny the averments made in the O.A. They deny that applicant ever filed any resignation letter on

2

25.3.98 which he withdrew on 30.3.98 as claimed by him. They aver that applicant submitted his resignation letter on 25.5.98 which was accepted by the competent authority on 3.6.98 vide impugned order, and the same cannot, therefore, be termed illegal, arbitrary or vindictive in nature. (13)

7. Applicant has filed rejoinder, in which he has broadly reiterated the contents of the O.A.

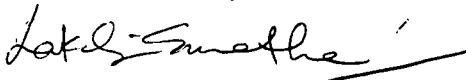
8. We have heard applicant's counsel Shri G.P.Sharma and respondents' counsel Shri S.K.Gupta. The relevant file of respondents containing applicant's resignation letter in original has also been perused by us, and we have given the matter our careful consideration.

9. A perusal of the resignation letter in original shows that there is an overwriting in the date over the figure to give '3' to read '5'. The stamp of the CBI Office, Dhanbad showing the date of receipt clearly reads 25.5.98. We are, therefore, satisfied that this resignation letter was submitted by applicant on 25.5.98 and was received in CBI Office, Dhanbad the same day. Nothing has been shown to us by applicant to suggest that he intended that the resignation letter take effect from a future date and before that date he withdrew his resignation. Under the circumstances, applicant's claim that he submitted the resignation letter on 25.3.98 (Annexure H) is a

clear attempt to hoodwink the Court. Applicant has not come to the Court with clean hands, and, therefore, forfeits any claim for relief. (A)

10. Applicant in his rejoinder has taken the plea that the impugned order dated 3.6.98 accepting his resignation was not passed by the competent authority. This plea was not taken by him in any of the grounds contained in Para 5 of the O.A. If he had done so respondents would have got an opportunity to reply to the same.

11. As applicant has not come to the Tribunal with clean hands, we do not consider it necessary to go into the merits of the case. The O.A. is dismissed. No costs.


(Mrs. Lakshmi Swaminathan)
Member (J)


(S.R. Adige)
Vice Chairman (A)

/GK/