

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

D.A. NO. 2289/94

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New Delhi this the 28th day of November, 1994

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN  
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Shri Ajay Rawat  
S/O Shri N. S. Rawat,  
R/O B-2/56-A MIG Flats,  
Lawrance Road,  
Delhi - 110035.  
Inspector, Central  
Bureau of Investigation/ACU(VI),  
New Delhi.

... Applicant

( By Advocate Shri Aman Lekhi )

Versus

1. Central Bureau of Investigation  
through  
Director, C.B.I.,  
Kendriya Karyalaya Parisar,  
Block No.3, Lodhi Road,  
New Delhi - 110003.
2. Deputy Director (Admn.),  
Central Bureau of Investigation,  
Kendriya Karyalaya Parisar,  
Block No.3, Lodhi Road,  
New Delhi - 110003.

... Respondents

( By Advocate Shri M. M. Sudan )

O R D E R (ORAL)

Shri Justice S. C. Mathur —

Through this application under Section 14 read with Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks a direction to the respondents to accept his resignation and relieve him with all pay and allowances from the post held by him in the Central Bureau of Investigation, for short, 'the Bureau'.

2. Admittedly, the applicant is holding a temporary appointment in the Bureau as Inspector. He made an application for appointment in the

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Gas Authority of India Limited. The application was submitted to the Bureau which forwarded it to the Gas Authority. The Gas Authority selected the applicant and required him to join. By the date fixed for joining the applicant could not report as he had not been relieved from the Bureau.

The date has now been extended to 30.11.1994. The applicant submitted an application on 28.9.1994 to the Deputy Director (Administration) tendering his resignation from the post of Inspector, C.B.I. Thereafter, he made another application on 26.10.1994. In this application, the applicant pointed out that since he was still temporary in the establishment of the Bureau, paragraph 4 (iii) of the memorandum of appointment offer was applicable and either side was entitled to terminate the employment by giving one month's notice. The applicant stated that his letter dated 26.10.1994 may be treated as one month's notice. The respondents showed disinclination to relieve the applicant and communicated their disinclination through letter dated 16.11.1994. This necessitated the filing of the present application by the applicant.

3. On behalf of the respondents, reply has been filed in which the only ground for not accepting the resignation and not relieving the applicant advanced is that there is shortage of investigating officers in the Bureau and public interest will suffer in case the applicant is relieved.

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4. We find no substance in the plea raised in the reply. In view of the fact that admittedly the applicant is a temporary Government servant, his service conditions will be governed by the Central Civil Services (Temporary Service) Rules, 1965. Rule 5 (1) (a) of these Rules confers right on the Government servant as well as on the Government to terminate the employment by giving one month's notice. This Rule does not reserve any power in the Government to refuse a notice served under this provision. It may be that in the letter submitted by the applicant, the word 'resignation' has been used. In view of the nature of the employment, that word will have to be read as 'termination'. In his letter dated 26.10.1994, the applicant has specifically invoked paragraph 4(iii) of the offer of appointment. This clause also confers power upon the employer as well as the employee to terminate employment by giving one month's notice. Therefore, sufficient notice has been given to the respondents regarding the nature of the power which the applicant was seeking to exercise.

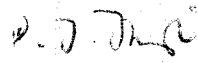
5. Learned counsel for the respondents invited our attention to Rule 26 of the Central Civil Services (Pension) Rules. This provision has no application to the facts of the present case as it deals with forfeiture of service on resignation. There are Government of India instructions which have been referred to below the Rule. In these instructions also it is mentioned that the Rule is not applicable to temporary employees.

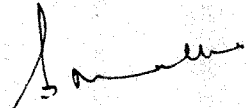
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6. In view of the above, we are of the opinion that the action of the respondents in not relieving the applicant was wholly arbitrary and unjustified. Accordingly, this application is allowed and the order dated 16.11.1994 is hereby quashed. The respondents are directed to relieve the applicant forthwith and pay his pay and allowances in accordance with rules. There shall be no order as to costs.

A copy of this order shall be issued to the learned counsel for the applicant Dasti.

  
( P. T. Thiruvengadam )  
Member (A)

  
( S. C. Mathur )  
Chairman

/as/