

Central Administrative Tribunal
Principal Bench

O.A. No. 367 of 1994

New Delhi, dated this the 11 October, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. P.C. Kannan, Member (J)

Const. Sunder Lal No. 8883/DAP,
VII DN., DAP,
S/o Shri Dapheydar Singh,
R/o A-33, P.S. Bhajanpura,
Delhi-110093. ... Applicant

(By Advocate: Shri Shankar Raju)

Versus

1. Lt. Governor of Delhi,
NCT of Delhi,
6, Rajniwas Marg, Delhi.

2. The Commissioner of Police,
Police Headquarters, I.P. Estate,
M.S.O. Building,
New Delhi-110002. ... Respondents

(None appeared)

ORDER

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

Applicant impugns respondents' orders dated 9.3.93 (Annexure A-12) and seeks a direction to re-examine/reconsider his case sympathetically in relaxation of rules to give him the benefit of his past service, or alternatively to quash the impugned order and direct respondents to count the period of service of his from 12.11.68 to 4.5.82 as qualifying service in all respects. It has also been prayed to

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quash the impugned order of resignation (Annexure A-2) and direct respondents to treat the period from 4.5.82 to 15.8.93 as qualifying service.

2. Applicant was enrolled as a temporary constable on 12.11.68. Admittedly applicant submitted his resignation, which was accepted w.e.f. 4.5.82 (Annexure A). Subsequently applicant submitted a representation seeking withdrawal of his resignation which was rejected by order dated 7.9.82 (Annexure A-4). Thereupon applicant submitted another representation upon which respondents by order dated 10.8.83 (Annexure A-6) allowed him to rejoin service subject to the condition that the period he remained out of employment would be treated as break in service. Subsequently by Memo dated 5.8.85 (Annexure A-8) respondents confirmed the position that as applicant had resigned of his own accord, his previous service stood forfeited in terms of Rule 26(1) CCS (Pension) Rules and his subsequent appointment on compassionate grounds would be his first appointment in Delhi Police. His qualifying service would therefore start from the date he joined afresh (second spells) in Delhi Police.

3. Applicant contends on the basis of the document a photo copy of which is at Annexure A-1, that he was appointed by the D.I.G. of Police under the Punjab Police Rules, but the document at

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Annexure A-1 is not the appointment letter. It is only the order confirming police powers upon him, and on its strength he cannot claim successfully that he was appointed by the DIG of Police and hence his resignation could not have been accepted by Dy. Commissioner of Police.

4. Applicant has also contended that his resignation was obtained under pressure, but there are no materials which he has furnished to establish this contention to our satisfaction.

5. Applicant has also no enforceable legal right to compel respondents to relax the rules in his favour, so as to grant him the reliefs prayed for.

6. Applicant's counsel Shri Shankar Raju has relied upon the CAT, P.B. Order dated 1.8.97 in O.A. No. 883/97 Ex-Constable Salim Kumar C.P. Vs. Secretary, Home Ministry & Others which has been upheld by the Delhi High Court, but in that case respondents permitted that applicant to withdraw his resignation, and the appointing authority passed an order allowing that applicant to withdraw his resignation, but subsequently the appointing authority without any notice to that applicant revoked his previous order. In the present case no such order was passed by respondents allowing applicant to withdraw his resignation and hence the

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decision in O.A. No. 883/97 is clearly distinguishable on facts and does not help the present applicant. 10

7. The action taken by respondents is fully in accordance with Rule 26(1) CCS (Pension) Rules which is fully applicable to the present applicant as is clear from Notification dated 17.12.80, and the O.A. warrants no judicial interference. It is dismissed. No costs.

P. C. Kannan

(P.C. Kannan)
Member (J)

/GK/

S. R. Adige

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