

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 513/94

NEW DELHI THIS THE 26 DAY OF AUGUST, 1994

MR. JUSTICE S.K.DHAON, ACTING CHAIRMAN
MR. B.N.DHOUNDIYAL, MEMBER(A)

Shri Ramesh Chand
S/o Shri Kuria Ram
R/o A-13, Jail Staff Quarters,
Central Jail
Tihar, New Delhi.

APPLICANT

BY ADVOCATE SHRI G.D.BHANDARI

vs.

1. Government of NCT,
Through
The Secretary, HOME
Government of NCT,
Sham Nath Marg
Delhi.
2. The Inspector General of Prisons
Central Jail Tihar
New Delhi.
3. Shri R.D.Behot,
Dy. Supdt.
Central Jail,
Tihar, New Delhi.

RESPONDENTS

BY ADVOCATE SHRI JOG SINGH.

ORDER

JUSTICE S.K.DHAON:

The applicant, an erstwhile Warden in the Central Jail Tihar, challenges the legality of the Office Order dated 19.2.1994 passed by the Inspector General of Prisons, Central Jail, Tihar accepting his resignation with immediate effect.

2. On 19.2.1994, the applicant in his own handwriting addressed an application to the "Mahanirikshak" (the Inspector General) stating therein that he did not desire to be in service and his resignation may be accepted with immediate effect.

3. The legality of the order of acceptance of resignation by the Inspector General of Prisons has been questioned on the ground that the Inspector General of Prisons being not a competent authority, she had no jurisdiction to accept the resignation of the applicant. No rule has been brought to our notice by the learned

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counsel for the applicant which relates to the manner of giving of a resignation and which prescribes the authority competent to accept the resignation.

4. For the purpose of examining this question, we have to proceed on the assumption that the applicant voluntarily submitted his resignation. We have also to apply the normal law that the resignation will become effective only after its acceptance. By submitting his resignation, an employee gives an offer that the contract of service between him and his employer may be terminated. To put it differently, he makes an unilateral offer of snapping the relationship of master and servant or employee and the employer. The offer, if accepted, takes the shape of an agreement. In the case of offer of resignation, the resignation becomes effective the moment it is accepted. In the present case, the applicant having tendered his resignation to the Inspector General of Prisons and the same having been accepted by her, it is now too late for the applicant to contend that his resignation has not been accepted by the competent authority and, therefore, such an acceptance is ^a nullity. The applicant himself treated the Inspector General of Prisons as the competent or the appointing authority and that is why he addressed and submitted his resignation to her.

5. Counsel for the respondents has brought to our notice, a notification dated 2.3.1993 issued by the Government of the National Capital Territory of Delhi Home(General) Department. By this notification, an amendment in the notification dated 22.8.1974 containing the rules regarding the method of recruitment and qualifications necessary for appointment to the post of a Warder in Central Jail, Tihar, New Delhi, had been introduced. Before the amendment, the post of a Warder

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was considered as a Group 'D', Non-Gazetted, Non-Ministerial. As a result of the amendment, the post has become Group 'C', Non-Gazetted, Non-Ministerial.

6. Rule 9 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (the Rules), inter alia, states that all appointments to the Central Civil Services (other than the General Central Service) Class II, Class III and Class IV, shall be made by the authorities specified in the Schedule. If we turn to the Schedule Part-III which relates to Central Civil Services, Group 'C', at Sl. No. 4 under the Head 'description of service', "General Central Service, Group 'C'", we find two services

one of them being that the posts in non-Secretariat office and other than the posts in respect of which specific provision has been made by a general or special order of the President. Against the said description of service, the appointing authority is mentioned as the Head of Office. Therefore, even under the Rules as applicable to the case of the applicant, the Inspector General of Prisons being the Head of Office was and is the appointing authority so far as Group 'C' employees are concerned.

7. Instead of referring to the averments made by the applicant in this original application, it will be appropriate to refer to the averments made in the counter-affidavits filed on behalf of the respondents. Three counter-affidavits have been filed. The first counter-affidavit has been filed by Shri Jaya Dev Sarangi, DIG-Prison, Delhi. In this, the material averments are these. The Deputy Inspector General Prisons forwarded the application for voluntary resignation of the applicant and the Inspector General Prisons being the competent authority accepted the same on merits. The applicant tendered his resignation on the ground of "domestic

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problems". It is not mandatory to assign reasons for accepting the resignation.

The counter-affidavit filed by Shri R.D.Bohet, Deputy Superintendent, Central Jail, Tihar, New Delhi contains the following averments. That officer has never been the Deputy Superintendent Jail No.3 and the applicant did not work under him directly. Hence there is no question of personal hatred and animosity towards the applicant. All the allegations levelled against the said officer by the applicant are unfounded, frivolous and totally false. The said officer never took personal search of the applicant. The question of nursing personal hatred and animosity did not arise as the said officer was never posted in Central Jail No.3 and the applicant has never worked under him.

Then, we have the counter-affidavit of Shri D.P.Dwivedi who was working as Superintendent, Central Jail No.3 Tihar, New Delhi since 7.6.1993. The material averments in this affidavit are these. The applicant was working under Shri D.P.Dwivedi till his date of resignation. On 19.2.1994, he forwarded the application containing the resignation of the applicant to the Deputy Inspector General(Prisons) for further necessary action. The applicant was not taken to the residence of the Inspector General(Prisons) by him. Since the applicant was working under that officer, he merely forwarded his resignation. That officer did not call the applicant in Central Jail No.3. Nor that officer entered inside the jail at the hour and time mentioned by the applicant. This fact may be verified from the photocopy of Register No.16(In and Out Register of Jail) marked as Annexure 'K'. No personal search of the applicant was conducted by that officer or any other officer. Neither the applicant was taken to the Deputy Inspector General(Prisons) nor he was threatened with criminal prosecution by Sh.Dwivedi.

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Shri Dwivedi did not dictate the draft of resignation to the applicant. He(the applicant) made his application on his will which was simply forwarded. There was no question of any compulsion, harassment, torture and duress. That officer did not tape the coversation of the applicant. He merely forwarded the letter of resignation to the DIG(Prisons).

8. The allegations of mala fide made by the applicant are neither here nor there. They have been denied by the officers concerned who have filed their own affidavits. The allegation of the applicant that he was coerced under threat of criminal prosecution to tender resignation has been denied by the concerned officers in their own affidavits filed by them. On the whole, we are satisfied that the applicant has not been able to establish either any mala fide or any threat or coercion under which he was compelled to submit his resignation.

9. This original application is without any merit. It is dismissed. No costs.

B.N.Dhundiyal
(B.N.DHUNDIYAL)
MEMBER(A)

S.K.Dhaon
(S.K.DHAON)
ACTING CHAIRMAN

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