

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No.1065/94

New Delhi this the 24<sup>th</sup> Day of March 1995.

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. B.K. Singh, Member (A)

Shri Charan Singh  
son of Shri Phali Ram,  
Resident of D-51 East Jawahar Nagar,  
Distt. Ghaziabad (U.P.) ... Applicant

(By Advocate: Shri Zafar Sadiq)

Vs

1. Commissioner of Police,  
I.P. Estate, New Delhi.

2. The Deputy Commissioner of Police,  
North East Police District,  
Seelampur II,  
Shahdara,  
Delhi. ... Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R

Hon'ble Mr. B.K. Singh, Member (A))

This O.A. No. 1065/94 has been filed on  
16.5.1994 Under Section 19 of the Central Administrative  
Act, 1985 and is directed against the order No.  
8021/Estt (IV)PHQ, Delhi datged 12.5.1993 passed by  
Commissioner of Police, I.P. Estate, New Delhi.

2. The admitted facts of the case are these. The  
Applicant Shri Charan Singh was enlisted in Delhi Police  
as Constable on 11.8.1976 as a temporary sub inspector on  
15.10.1981. On 27.7.1991 while he was posted at Police  
Station Nand Nagri, he absented himself from duty without  
any information. He was marked absent. On July 30 on  
receipt of a wireless message from Police Station Balani,  
Meerut, U.P. by SHO, Nand Nagri that the applicant was

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there and was not in proper shape of mind the SHO Nand Nagri, went to Baleni, Police Station in Meerut, and found that the applicant was present in the Police Station and a case under Sec. 364 IPC had been registered. The SHO Nand Nagri, brought the applicant at the Police Station, Nand Nagri. The applicant Charan Singh did not make any complaint in oral or in writing about his kidnapping or having been administered some intoxicating drug on the 27.7.1991 when he was going to the police station Nand Nagri. Subsequently, he sent in his resignation letter on 31.7.1991 and he did not report for duty after that. In spite of the best efforts as is revealed by a perusal of the counter reply and the various annexures and the relevant personal file summoned and produced by the respondents, we find that they made best efforts to see that the applicant resumed his duties, but in spite of all the efforts, the applicant did not resume his duties and the respondents had no option but to accept the resignation on 4.12.1991. The letter of withdrawal of resignation was submitted on 13.10.1992 and the same was rejected by DCP on 2.2.1993, and an appeal was filed to the Commissioner of Police and the same was rejected on 12.5.1993. Aggrieved by that order, this application was filed.

3. The reliefs sought are -

(a) To quash and set aside the Order No. 8021/Estt (IV) PHQ dated 12.5.1993 passed by the Commissioner of Police, IP Estate, New Delhi;

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(b) and to issue directions to the respondents for allowing the applicant to resume his duties with effect from 4.12.1991 with all arrears and benefits.

4. A notice was issued to the respondents who filed their reply contesting the application and the grant of reliefs prayed for.

5. Heard the learned counsel Shri Zafar Sadiq for the applicant and Shri Vijay Pandita for the respondents and perused the record of the case and the personal file of the applicant summoned and produced by the respondents.

6. The learned counsel for the applicant argued that the resignation letter was a conditional one and the respondents were wrong in accepting the resignation letter sent by the applicant. Secondly, he argued that he submitted the letter of resignation when he was in a state of depression. The version of the applicant is that he had been administered some intoxicant and carried in that state to Police Station, Balani, Meerut, U.P., and therefore out of sheer disillusionment he submitted his resignation, from the service of the respondents. We perused the counter reply also and the learned counsel appearing on behalf of the respondents relied on the decision of the Hon'ble Supreme Court in case of Raj Kumar Vs. Union of India AIR 1969 SC 180 which held the view:

"But when a public servant has invited by his letter of resignation determination of his employment, his service normally stand terminated from the date on

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which the letter of resignation is accepted by the appropriate authority ...., it will not be open to the public servant to withdraw his resignation after it is accepted by the appropriate authority".

7. The resignation is effective from the date it is tendered provided it does not need acceptance of the employer at all in the absence of a rule or regulation to that effect. This view was propounded in the case of Bank of India, New Delhi vs. Ved Prakash (1977) 50 FJR 430. The question has sometimes been raised as to what has been the effect of the offer of resignation or service contract. The relationship of master and servant is created by a bilateral act. It can continue with mutual consent. In this view, if a letter of resignation is submitted the contract loses the bilateral consent needed, and as such, may be said to dissolve the relationship created but an offer of resignation at a future date has been held by courts to be revocable. The law, therefore, is that the servant has the right to rescind from the offer or expression of intention to resign before it is accepted by the master or the competent authority. Once the resignation is accepted, the relationship ends. In other words, the mere expression of a desire not to serve any longer, by itself, does not stop the servant from changing his mind to serve again. But once it is accepted the servant cannot insist to have the contract continued.

8. The termination of service of a government servant can be brought about either in accordance with the rules governing conditions of service or by the terms of employment or by acceptance of resignation. A

bilateral relationship gets snapped once a unilateral decision is taken by servant to resign and the same is accepted by the employer or the Competent Authority as per rules governing the service.

9. Thus, the general rule is that a resignation can take effect when it is accepted by the competent authority or the employer. In a case where it merely amounts to an offer to quit the service, unless the offer is accepted by the employer or someone duly authorised in that behalf it will not be taken as termination of service of the resigning employee. Although, the relationship between the government and its employees is not entirely based on contract, in matters which are not governed by statutory rules of terms of employment, the principle relating to contracts are applicable. It is for this reason that the principles applicable to withdrawal of offer under the law of contract are also applicable to the withdrawal of resignation, provided the same has not been accepted. This view has been held in case of Harish Chander Gupta Vs State of Madhya Pradesh 1972 MPLJ; Jagdish Chandra Vs Commissioner of Transport (1982) SLJ 422.(H.P.) The resignation can be withdrawn before it is accepted or before it becomes effective. This view has been held in case of J.C. Mehta Vs Postgraduate Institute of Medical Education and Research (1984) 1 SLJ 477 (P&H).

10. Once the resignation is withdrawn subsequent acceptance with retrospective effect has been held illegal in the case N.R. Jagnant Vs Bihar State

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Education Board; 1975 Lab I.C. 943. This judgement is a dissenting judgement from Bahorilal Paliwal Vs D.M. Bulandshar AIR 1956 Allahabad 511 (FB).

11. Mere resignation is not enough unless it is assented to or unless it complies with those terms which the law implies or the prior agreement of parties may permit. In Jairam Vs Union of India 1954 SC 584; His Lordship of the Supreme Court observed as follows :-

"It may be conceded that it is open to a servant who has expressed a desire to retire and applied to his superior officer to give him the required requisite permission to change his mind subsequently and ask for cancellation of the permission thus obtained but he can be allowed to do so only when he continues in service and not after the services have been terminated."

12. It is well settled that until resignation of civil servant is duly accepted by the appropriate authority he has a chance of recalling it. The law has been well settled by the Hon'ble Supreme Court in case of Union of India; AIR 1969 SC 180. In this judgement the Hon'ble Supreme Court has observed;

"Till the resignation is accepted by the appropriate authority in consonance with the rules governing the acceptance, the public servant has *locus Paenitentiae* but not thereafter."

And this view was also held in Bhairon Singh Vs Civil Surgeon Narsimhapur 1971 Lab IC 121.

13. It is open to a servant to make his resignation operative from a future date and to withdraw such resignation before its acceptance. In the instant case in the letter of resignation dated 31.7.91 submitted by the applicant that it be effective from a future date. He wanted it's acceptance immediately and the resignation was accepted after making due efforts to make him resume his duty as is revealed from the personal file but he

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declined to withdraw his resignation, and there was no option for the respondents but to accept the resignation w.e.f. 4.12.91. The subsequent letter for withdrawal of resignation dated 13.10.92, therefore, has no meaning and relevance since his letter of resignation had already been accepted. He was not continuing in service nor was any request contained in the letter that it should be effective from a future date. The services of a government servant will normally stand terminated from a date on which the letter of resignation is accepted by the appropriate authority unless there is any law or statutory rule governing the conditions of service to the contrary. In Delhi Police Act there is nothing contrary to the principle enunciated above. The date of acceptance is crucial and the personal file of the applicant clearly shows that the respondents made sincere and genuine efforts to persuade the applicant to resume duty but he remained adamant and did not join and under compulsion the respondents had to accept the resignation since his previous record of service shows that he has been absent for 187 days prior to his disappearance on 27.7.91 when he was found subsequently in Balani Police Station, Meerut as a result of SHO Nand Nagri visiting that Police Station on receipt of a wireless message.

14. The learned counsel for the applicant has not been able to cite any judgement which can support his contention. The view that has been enunciated above regarding submission of resignation and its acceptance has also been reiterated by the Hon'ble Supreme Court in P.E. Kasilingam Vs PSG College of Technology (1981) 1 SCC 483.

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15. It has been held in the aforesaid judgement of the Hon'ble Supreme Court that resignation becomes effective from the date of its acceptance and subsequent withdrawal of the resignation or delayed communication of acceptance has no effect. The same view has been held in case of R,K, Biran Singh Vs I.G. Police Manipur, 1982 Lab IC 16 relying on AIR 1954 SC 584; AIR 1972 1302; 1969 Lab IC 310 (SC) and 1978 Lab IC 660 (SC).

16. A perusal of the record clearly shows that it is not the case of forced resignation or based on cajolry or fraud as is revealed from the personal file of the applicant. It is voluntary and this can be fully inferred from the facts and circumstances available in the personal file of the applicant. The file reveals clearly that the respondents have been extremely generous in persuading the applicant and even approaching his wife to ensure that the applicant joins but in spite of their best efforts the applicant did not oblige them.

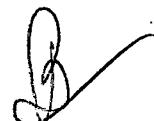
17. Thus from the facts and circumstances of the case irresistible presumption can be drawn that the applicant resigned voluntarily and that in spite of the best efforts made by the respondents the applicant could not be persuaded to resume his duties and as such the respondents were left with no alternative but to accept the resignation. And once the resignation was accepted on 4th December, 1991 the subsequent request for withdrawal of resignation of dated 13th October, 1992 has

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not meaning and relevance and as such the application fails and is dismissed leaving the parties to bear their own costs.

18. The personal file of the applicant is returned to the respondents.



(B.K. Singh)  
Member (A)



(J.P. Sharma)  
Member (J)

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