

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.612 of 2000

New Delhi, this 11th day of April 2001

HON'BLE SHRI M.P.SINGH, MEMBER(A)

(S)

Prabir Kumar Biswas
S/o Late Bidhu Bhushan Biswas
LDC C/o Executive Engineer, PWD(DA)
G.T.B. Hospital, Civil Division
Shahdara, Delhi-110095 ... Applicant

(By Advocate:Shri A. Bhattacharjee)

versus

1. Union of India
through the Secretary
Ministry of Defence
South Block
New Delhi
2. Joint Secretary(AD & CAO)
Senior Administrative Officer (P-1)
Ministry of Defence
Army Headquarters
C-II Hutsments, PHQ, New Delhi-110011
3. Joint Secretary (Training) &
Chief Administrative Officer
C-II Hutsments, DHQ, PO Army H.Qtrs
Dalhousie Road, New Delhi
4. The National Commission of SC & ST
through its Secretary
5th Floors, Loknayak Bhawan
Khan Market
New Delhi

... Respondents

(By Advocate: Shri D.S.Mahendru)

ORDER(Oral)

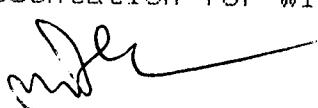
The applicant has challenged the order dated 27.7.1999 whereby the respondents have rejected his application/representation for withdrawal of his technical resignation.

2. The brief facts of the case, as stated by the applicant, are that he was appointed as LDC on 12.7.1985 in the Army Headquarters, New Delhi.



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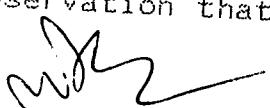
Due to certain family problems the applicant sought for transfer to any Central Government office located in his home-town i.e. Calcutta. On his request, the Superintendent Engineer, Co-ordination Circle, CPWD, Calcutta issued appointment order vide O.M. dated 23.10.1991 appointing the applicant as LDC in the department. After he was appointed as LDC in CPWD, Calcutta, he tendered his resignation and requested for relieving ^{him} to join new department, i.e. CPWD, Calcutta. After his release from the Ministry of Defence, the applicant joined at CPWD, Calcutta on 2.2.1992. However, soon after joining there, he found that the new appointment at his hometown will not be beneficial to him. Hence he submitted an application for withdrawal of his resignation on 19.3.1992 so as to rejoin his parent department in the Armed Forces Headquarters Cadre under the Ministry of Defence. On 1.5.1992 he was informed that the competent authority had not accepted the request for withdrawal of his resignation. Thereafter he sought transfer to Delhi under the establishment of Director General of Works, CPWD, New Delhi. He was accordingly transferred to New Delhi under the SE, CPWD, Coordination Circle(Civil), CPWD, New Delhi. Thereafter the applicant again submitted his representation requesting the respondents to reconsider their decision rejecting his representation for withdrawal of



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his technical resignation. The respondents have rejected his representation vide order dated 27.7.1999. Aggrieved by this, he has filed this OA.

3. The respondents have contested the case and have stated that the applicant filed his representation dated 19.3.1992 requesting respondent no.3 for withdrawal of his resignation on the ground that the location of his office in Calcutta was far away from his residence and that commuting problem was adversely affecting his health. As the grounds for withdrawal of resignation were neither in public interest nor permissible under rules, the competent authority did not accept the request of the applicant for withdrawal of resignation. It is stated by the respondents that the applicant has been transferred from CPWD, Calcutta to the office of the SE, Coordination Circle(Civil), CPWD, I.P.Bhavan, New Delhi on 23.4.1993. Since the applicant has been transferred to Delhi, the stated problems on the basis of which he was seeking withdrawal of resignation have been mitigated and the applicant does not have any case on merit for withdrawal of resignation. The applicant has also represented to the National Commission of SC/ST vide representations dated 13.11.1997 and 27.5.1998 which were rejected by them with the observation that "there has been no



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mis-carriage of justice." It has been further stated by the respondents that it is settled principle of law that repeated representations do not extend the period of limitation. The cause of action in the case of the applicant arose on 1.5.1992 and the applicant has approached the Hon'ble Tribunal only in 2000. The OA, therefore, suffers from delay and laches and is liable to be dismissed on this ground.

4. Heard both the learned counsel for rival contesting parties and perused the record.

5. It is seen from the record placed before me that the applicant had earlier requested the respondents to transfer him to Calcutta because of family problems. Soon after joining the new department, CPWD, Calcutta, he again wanted his re-transfer to Delhi as he was facing certain problems in Calcutta. His request was acceded to and he was transferred to Delhi in the same department. The applicant had tendered his resignation from Ministry of Defence where he was working, to join the new department at Calcutta. On 19.3.1992, he had again made a request for withdrawal of his resignation. The withdrawal of the resignation cannot be permitted under the provisions of CCS(Pension)Rules,1972. Rule 26 of the said Rules stipulates that the appointing

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authority may permit a person to withdraw his resignation in the public interest provided certain conditions are fulfilled. On a perusal of these instructions, it is found that the applicant does not fulfil the conditions stipulated in the aforesaid Rules and hence the respondents have rightly rejected his request for withdrawal of the resignation.

6. In view of the above discussions, the OA is devoid of merit and the same is dismissed accordingly. No order as to costs.

M. P. Singh
(M. P. Singh)
Member(A)

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