

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI.

O.A. 1089/87.

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Avadhesh Chand Verma ... Applicant.
versus
Union of India and others ... Respondents.

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Shri P.C.Jain, Member(Admn).†

For the applicant- Shri G.D.Gupta, Advocate.†

For the respondents- Ms R.K.Chopra, Advocate.

Date of hearing - 2.5.90

Date of Judgment & Order - 4.5.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

The applicant while working as Assistant Executive Engineer tendered his resignation from service with effect from 17.5.1986 by the letter addressed to the first respondent on the same date. He was informed by the telegram dated 6th October, 1986 that his resignation was not accepted by the higher authority, and he was directed to report for duty forthwith. Following that, a letter was issued to him on 21.10.1986 calling upon him to report for duty.

2. It is alleged by the applicant that he joined duty on 30.3.1987 and on the same day wrote a letter to the first respondent stating that he is reporting for duty and that his letter of resignation may be treated as cancelled.† On 5.6.1987, the second respondent intimated the applicant that as his resignation has been accepted by the competent authority with effect from 17.5.1986, his rejoining duty and continuing thereon is irregular.†

3. The applicant prays for quashing the act of the respondents in accepting the resignation that was cancelled and for all

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consequential benefits. It is contended that after the resignation is withdrawn on 30.3.1987, the respondents cannot legally accept the same.

4. In the reply filed on behalf of the respondents, it is stated that the applicant went on leave with effect from 9.11.1985, and submitted the letter of resignation while he was continuing on leave, ^{and} ~~It is stated~~ ² that while the acceptance of the resignation was being processed by the Army Headquarters, it came to light that the applicant was required as a witness in a staff Court of Inquiry and hence he was directed to report for duty. It is further stated that when the letter dated 30.3.1987 sent by the applicant cancelling his resignation was received in the office of the second respondent on 2.6.87, his resignation had already been considered and accepted by the competent authority with effect from the original date of resignation, namely, 17.5.1986.

5. It is settled law that the resignation of a Government servant becomes effective only on its acceptance by the competent authority, and on communication of such acceptance to him. It is open to the Government servant to withdraw his resignation before such acceptance. Reference may be made in this context to the decision of the Supreme Court in Raj Kumar v. Union of India, [1968(3)SCR 860], and in Satish Chandra v. Gopal Chandra Misra, [1978(1) SLR 521].

6. Counsel of the applicant also brought to our attention the decision of a Bench of this Tribunal in Smt Pushpa Agrawal's case, [ATR 1986 CAT 192]. It was held here that in the matter of resignation of a Government servant neither the date of resignation nor the date on which a

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decision is taken on the file to accept it, is relevant, and that acceptance of the resignation on the file cannot be taken as a valid acceptance in the eyes of law, so long as the acceptance is not communicated to the Government servant.

7. The applicant tendered his resignation on 17.5.1986. It was only by the letter dated 5.6.1987 issued by the second respondent that the applicant was informed that the competent authority has accepted the resignation with effect from 17.5.1986. By then, more than a year had expired from the tender of resignation. It is significant to note that by the telegram issued by the second respondent on 6.10.1986, the applicant was categorically informed that his resignation was not accepted by the higher authority. By the letter dated 30.3.1987, the applicant had withdrawn his tender of resignation. By a later order, the competent authority cannot accept the tender of resignation with retrospective effect so as to operate from a date prior to the withdrawal. When once a withdrawal is made, the tender of resignation is no longer there, to enable the competent authority to act upon the same.

8. It follows that the communication contained in the letter dated 5.6.1987 issued by the second respondent (Annexure-L) that the resignation of the applicant has been accepted with effect from 17.5.1986 cannot be sustained in law. Since the applicant had joined duty with effect from 30.3.1987, he shall be deemed as having been on duty from that date and shall be allowed consequential benefits on that account. Since

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the applicant had reported for duty only on 30.3.1987, after submitting the letter of resignation on 17.5.1986, the intervening period shall be treated as eligible leave.

9. The application is disposed of as above.

Clear 4/5/1990
(P.C.Jain)
Member (Admn)

G. Sreedharan Nair
(G.Sreedharan Nair)
Vice Chairman.

S.P.Singh/
3.5.90.