

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2405/93

New Delhi this the 16th Day of November, 1993.

G.S. Sodhi,
Senior Vigilance Officer,
National Thermal Power Corporation Limited,
Badarpur Division,
New Delhi-110044.

...Applicant

(By Advocate Shri Gurmeet Singh)

Versus

1. The A&N Administration
through: Chief Secretary
Secretariat Building,
Port Blair.
2. Union of India through the
Secretary, Ministry of
Home Affairs, New Delhi.
3. The Inspector General of Police,
Andaman & Nicobar Islands,
Port Blair.
4. National Thermal Power Corporation
through its Chairman-cum-Managing Director,
Core-7, Scope Complex,
Lodhi Road Institutional Area
New Delhi.

...Respondents

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman
The Hon'ble Mr.B.S. Hegde, Member (J)

O R D E R

(Hon'ble Mr. N.V. Krishnan)

We have heard the learned counsel for the applicant. The applicant is aggrieved by the Annexure A order dated 24.10.91, issued by the Inspector General of Police, Andaman and Nicobar Islands, respondent No.3, accepting the resignation w.e.f. 1.1.1989 and terminating his lien in the post of Inspector in the Andaman and Nicobar Police.

2. It is stated that the applicant initially went on deputation to the National Thermal Power Corporation (for short NTPC), the fourth respondent. The applicant sent a letter to the fourth respondent on 27.12.88 (Annexure-J) in which he refers to his case for improvement in the offer of appointment and in the NTPC, expressing a hope that his case would

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be considered favourably. He, therefore, decided to submit his resignation from the Andaman and Nicobar Police w.e.f. 31.12.88. Accordingly, he enclosed to that Annexure-J letter, his letter dated 27.12.88, addressed to the third respondent, tendering his resignation from the post of Inspector of Police w.e.f. 31.12.1978 consequent upon his absorption in the service of the fourth respondent. He also requested that the terminal benefits be settled at an early date.

3. It is stated that the fourth respondent was, however, not inclined to give him the higher position, which, it is alleged, was promised to him. Therefore, the applicant requested the third respondent not to accept the resignation and instead, intervene in the matter and get for the applicant favourable terms of absorption. In this connection, the learned counsel draws our attention to the telegram dated 13.3.90, addressed by the applicant to the third respondent as well as to the wireless message dated 19.3.90, collectively referred to as Annexure-0 at pages 46-47 of the paperbook.

4. The third respondent declined to intervene and passed ~~that order~~ ^{that order}. The impugned order dated 24.1.91 (Annexure-A) refers to the fact that the third respondent has already informed the fourth respondent that he had no objection to accept the applicant's resignation from 1.1.189 in the letter dated 8.2.90 (Annexure 'N'), but that the resignation would be effected automatically if the fourth respondent absorbed the applicant and issued an order of absorption. The

NTPC absorbed the applicant from 1.1.1989 by the order dated 28.2.90.

5. A representation was made which has been ultimately disposed of by the letter dated 6.11.92 (Annexure-Y) which refers to the petition submitted by him to the Lieutenant Governor, Andaman and Nicobar Islands. By this memorandum the applicant was informed that the matter has been considered by the L.G. and he has found no merit in his representation and that he was satisfied about the disposal of the applicant's case by the third respondent.

6. It is in these circumstances that this application has been filed, seeking the following reliefs:-

- "a) Quashing or setting aside the impugned order No.3076 dated 24.10.91 (Annexure 'A') as unlawful and ultravires the Constitution of India and devoid of any jurisdiction/authority.
- b) To declare that the applicant had continued to be an Inspector of Police of the A&N Police.
- c) A direction upon the IGP to revert the applicant to parent department and fix him in his appropriate seniority.
- d) Direction in the nature of quashing the seniority list of Inspectors dated 02 March 1990 (Annexure 'b') and direction to include in the seniority list, the name of the applicant at the appropriate stage at S.No.15 and forwarding the same to the Ministry of Home Affairs for purpose of future promotions."

7. We have heard the learned counsel. We are of the view that there is no evidence whatsoever that the applicant had withdrawn his resignation letter. On the contrary, the letter dated 27.12.88 tendering resignation (Annexure J) is unqualified and does not refer to its being contingent on the fourth respondent (NTPC) taking a favourable decision in regard to the terms of absorption of the applicant

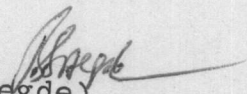
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in that organisation. The telegrams dated 13.3.90 and 19.3.90 addressed to the third respondent do not convey the unconditional withdrawal of the resignation letter (Annexure-J).

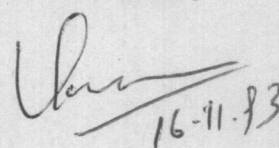
8. In the circumstances, we are of the view that the applicant having resigned, his lien cannot be maintained, and, therefore, we do not find any merit in the application.

9. The learned counsel also draws our attention to the fact that a resignation letter is not needed where an employee on deputation is absorbed with the consent of the parent department in the office where he is deputed. He ^{is} therefore, states that there was no question of action upon his resignation. Be that as it may, we are of the view that this does not prevent any official seeking resignation unconditionally. We find that the applicant has tendered a voluntary resignation which has been acted upon, and, therefore, the third respondent cannot be faulted.

10. We find that a prima facie case has not been made out. The O.A. is, therefore, dismissed.


(B.S. Hegde)
Member(J)

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16-11-93
(N.V. Krishnan)
Vice-Chairman