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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH, ALLAHABAD

Original Application No. 459 of 1988

Pratap Narain Singh .... .... ... Applicant.

Versus

Comptroller & Auditor General  
New Delhi, and others.

Respondents.

Hon'ble Mr. A.B. Gorthi, Member Administrative.

Hon'ble Mr. S.N. Prasad, Member Judicial.

( By Hon'ble Mr. S.N. Prasad, J.M. )

The applicant has approached the Tribunal under section 19 of the Administrative Tribunals Act, 1985 with the prayer that the order accepting the applicant's resignation dated 1.5.1986 during his insanity and communicated through letter dated 30.3.1987 and order rejecting the representation communicated through letter dated 14th December 1987 may be quashed, and the order or direction may be issued to respondents to permit the applicant to join his service and further direct them to sanction leave permissible under rules to the applicant for the period for which he was absent from his duties during his mental ailment and pay such salary to which he was entitled.

2. Briefly stated the facts of the case are that the applicant was selected through staff selection commission Allahabad and was appointed as Divisional Accountant and he joined the said post in the fore noon of 16.11.1981. However he could not pass confirmatory test and as such was reverted to the post of clerk in the office of respondent No.2 and he was working on the said post since 23.11.1984, and it is further stated that the applicant was suffering from mental disease and he had become insane in the month of April 1986 and he left his job from 16th February 1986. He was under treatment of Dr. Shashidher Tripathi M.B.B.S., a registered medical practitioner at Badlapur, District Jaunpur, since 20.4.1986. and during

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(7)

insanity the applicant tendered his resignation on 1.5.1986. The applicant's wife and his brother, on coming to know that applicant has tendered resignation, moved an application to respondent No.2 stating therein that applicant is suffering from mental disease and he has become insane and during such insanity he has tendered his resignation which may not be accepted. The applicant's wife sent a letter dated 28.2.1987 enclosing medical certificates and she stated in the said application that her husband is still suffering from mental disease and he is under medical treatment. His condition is improving but he is not in a position to discharge his duty; hence leave permissible under the rules may be granted to him. The Accounts Officer (Administration) of the office of respondent No.2 informed by letter dated 30th March 1987 that the applicant's resignation tendered during insanity has been accepted from 1.5.1986. On 15.4.1987, applicant's wife submitted representation to the respondent No.1 and prayed for reconsideration about the acceptance of resignation tendered by her husband during insanity. It is further stated that the resignation tendered by applicant on 1.5.1986 is no resignation as the applicant was suffering from mental disease and he had become insane. It was not conscious act of the applicant and it will not be binding upon him, and during insanity applicant's wife and brother submitted several applications for withdrawl of resignation and for not accepting the same. The aforesaid applications were sent much before the acceptance of resignation. At It is very much apparent from letter of Accounts Officer (Administration) dated 27.10.87 that applicant's resignation was not accepted till 27.10.1987. It is further stated that during applicant's insanity his wife and brother were entitled to withdraw the resignation tendered by the applicant during the insanity. The acceptance of said resignation after withdrawl application moved by applicant's wife and brother is wholly illegal, unreasonable and arbitrary.

(2)

It is further stated that after recovery from insane condition the applicant immediately revoked his act of submitting resignation during the period of insanity.

3. In the counter-affidavit, it has been stated, inter-alia, that the applicant submitted his resignation on 1.5.1986 in which he did not disclose about his ailment. It was the duty of his family members to bring this fact to the notice of employer before 1.5.1986 when he tendered the resignation. As per version of the applicant he was suffering from mental disease for a long period and became insane in the month of April, 1986. Therefore, it was the duty of the applicant/his family to bring such matter to the notice of the authorities in time to avoid any casualty. It is further stated that A letter dated 22.7.1986 was received from the brother of the applicant in which it was stated that the wife of the applicant had also requested not to accept the resignation of the applicant but as per records available in the office no such request was received from the wife before 10.3.1987 while the resignation was already accepted vide an order dated 24.11.1986 with effect from 1.5.1986. The letter dated 22.7.1986 received from his brother had a mention of mentally upset but it was not supported by any medical certificate. It has further been stated that no letter dated 21.11.1986 or 1.12.1986 was either received personally or through Dak; in response to letter dated 27.10.1986 issued by the respondents No.2 to the applicant through his brother; and the resignation of the applicant was accepted in November, 1986 and the wife of the applicant was also informed through a letter dated 30.3.1987 issued by the office of the respondent No.2 informing her that the resignation of the applicant was accepted w.e.f. 1.5.1986; and no information regarding medical treatment of the applicant was received before the

acceptance of his resignation on 24.11.1986 and the resignation of the applicant was accepted by Deputy Accountant General(Administration) as he was only the competent authority. It has further been stated that since the resignation had already been accepted; therefore withdrawal of resignation subsequent to the event could not be claimed as a matter of right. It has further been stated that the applicant could not pass type test which is a pre-requisite for retention in service as clerk and his services were in any case liable to be terminated u. s. f. 23.11.1986 that is, after completion of 2 years even had he not tendered his resignation from service. In view of the above circumstances the applicant is not entitled to any relief.

4. Rejoinder-affidavit has been filed by the applicant re-iterating therein almost those allegations as mentioned in his application. We have heard learned counsel for both the parties at length and have thoroughly and carefully gone through the records of the case.

5. The learned counsel for the applicant while drawing our attention to the contents of the application, Counter-affidavit, rejoinder-affidavit and papers annexed thereto, has argued that the applicant was suffering from mental disease and he had become in-sane in the month of April, 1986 and he had left his job from 16.2.1986 and was under medical treatment of Dr. Shashidhar Tripathi, M.B.B.S. registered medical practitioner, Badlapur District Jaunpur since 26.4.1986 and during his insanity, the applicant tendered his resignation on 1.5.1986 un-mindfully without knowing the cause and effect of such resignation; and has further argued that the acceptance of the resignation of the applicant has not been made by the competent authority and as such acceptance of resignation is not valid one; and has further argued that since the elder brother of the

applicant namely shri Kunwar Saheb Singh in his letter dated 21.11.1986(Annexure-2) and since the wife of the applicant namely Smt. Madhubala in her letter dated 28.2.87 (Annexure-3) had apprised the respondent No.2 ~~of~~ the mental disease and bad state of mind of the applicant requesting the authority concerned not to accept the resignation dated 1.5.1986 submitted by the applicant, and since the acceptance of resignation of the applicant has been communicated by the respondent No.2 through his letter dated 30.3.1987(annexure-4), after the aforesaid letters of the aforesaid Kunwar Saheb Singh and Smt. Madhubala, the acceptance of the resignation of the applicant by the respondent No.2 is not valid <sup>and binding</sup> in the eyes of law and as such the application of the applicant should be allowed and relief sought for by the applicant should be granted and in support of his argument <sup>has</sup> placed reliance on the ruling reported in A.I.R. 1969 (Supreme Court) Raj Kumar (Applicant) Vs. U.O.I. and others (Respondents) at page 180 - 181 wherein it has been enunciated by their Lordships that:-

" Constitution of India, Arts. 309 and 311-Govt. Servant - resignation - acceptance by Govt. - withdrawal of resignation not permissible even before communication of order of acceptance".

6. The learned counsel for the respondents while drawing our attention to the contents of the application, counter-affidavit, rejoinder-affidavit, as referred to above and papers annexed thereto, has argued that above letters of the aforesaid Shri Kunwar Saheb Singh and of the aforesaid Smt. Madhubala, who are brother and wife of the applicant respectively, will not be binding in service matter as service matter is <sup>a</sup> sort of contract between the employee and the employer, and has further argued that no letter of the applicant regarding withdrawal of his resignation has been received by the respondents, and has

further argued that the perusal of words contained in the resignation letter which was submitted by the applicant on 1.5.1986 clearly shows that the applicant was in good state of mind and he wrote his resignation letter intelligently, prudently, deliberately and spontaneously of his own accord which indicate that the said resignation letter was not written by any in-sane or a person of mental derangement, and has further argued that the resignation of the applicant was accepted by the Deputy Accountant General (Administration) Allahabad who is the competent authority in respect of the applicant Shri P.N. Singh clerk 05/6305 and has further argued that the acceptance of the resignation of the applicant dated 1.5.1986 was made by the competent authority and Deputy Accountant General (Administration) on 24.11.1986 and the same was communicated to the aforesaid Smt. Madhubala (wife of the applicant) as per letter dated 30.3.1987 (Annexure-4), and has further argued that withdrawal of resignation is not permissible even before communication of order of acceptance, and has further argued that under these circumstances the application of the applicant should be dismissed.

7. We have perused the above ruling.

8. This is worth while reproducing the above resignation letter dated 1.5.1986 which was written in his own hand writing by the applicant and which was addressed to the competent authority concerned and which reads as follows :-

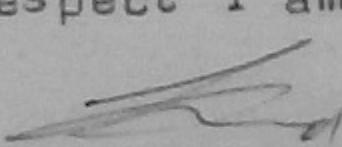
To

The D.A.G. (Administration)  
A.G-U.P. II (A&F)  
Allahabad.

Through the Section Officer  
I.E.(C) Section  
A-G-U.P.-II (A&F)

Madam,

With due respect I am to state that I tender

  
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(12)

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my resignation on 1.5.1986. It may, please, be accepted as soon as possible and obliged.

Dated 1.5.86

Yours faithfully,

Pratap Narayan Singh  
Clerk

IE(C) section  
A-G-U.P.II(A&F)  
Personal No.05/6305  
Group No.V/89.

B. We have carefully perused the above resignation letter dated 1.5.1986 written by the applicant in his own hand writing and the manner of addressing and the style of writing of the above resignation letter; and the words used by the applicant therein clearly go to reveal that the above letter was written by the applicant ~~not~~ intelligently, prudently and spontaneously of his own accord which we find not to be the letter written by the applicant during his insanity or mental derangement.

9. We have carefully gone through the entire personal file of the applicant maintained by the department concerned and we find that the aforesaid resignation, which was tendered by the applicant on 1.5.1986, was accepted by the Deputy Accountant General (Administration) in the month of November (on 18.11.1986) which was communicated through the letter No. Ka.AA. Sankhya Prasha/P.F./05/6305/64 dated 24.11.1986 and thus it becomes crystal clear that the resignation of the applicant was accepted by the competent authority i.e. Deputy Accountant General (Administration), Allahabad ~~which~~ <sup>much</sup> before the receipt of the aforesaid letter of the aforesaid Kunwar Saheb Singh and Smt. Madhubala (Annexure-2 and 3) respectively, and in reply to the letter of the aforesaid Smt. Madhubala, respondent No.2 again informed <sup>about</sup> ~~of~~ the

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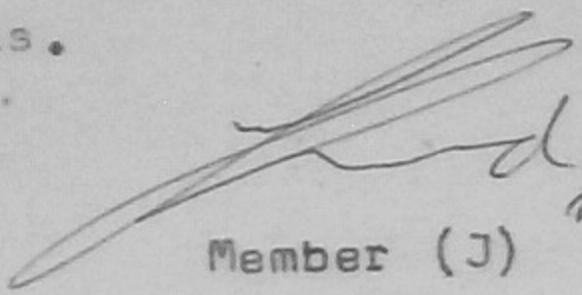
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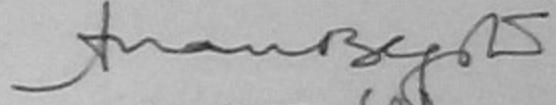
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acceptance of the resignation of the applicant by the competent authority w.e.f. 1.5.1986 (Annexure-4). This facts should also not be lost sight of that scrutiny of the records reveals that no letter regarding withdrawal of the resignation of the applicant dated 1.5.1986 was sent by the applicant before the aforesaid acceptance made by the competent authority. Thus, from the fore-going discussion and after scrutinising the entire material of the record and keeping in view of the circumstances of the case and having regard to the above ruling, we find that the above ruling is of no avail to the applicant.

~ Consequently ~

10. We have come to the conclusion that the application of the applicant is devoid of merit and force and is liable to be dismissed, and is dismissed accordingly with no order as to costs.

  
Member (J) 29.11.91

  
Member (A)

Allahabad 29th November, 1991.

(RKA)