

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 30TH DAY OF JANUARY, 2002

Original Application No.476 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Surendra pal, S/o Sri lal  
R/o Village Nagla Bhoj, Post  
Maman-Bharthana, district Etawah.

...Applicant

(By Advs Shri A.N. Bhargava/O.P.Gupta)

Versus

1. Union of India, through Director  
General Posts, Dak bhawan,  
Sansad Marg, New Delhi.
2. Chief Post Master General  
Uttar Pradesh Circle, Lucknow.
3. Senior Supdt. R.M.S(KP)Division  
Kanpur.

... Respondents

(By Adv: Ms.Sadhna Srivastava)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985, applicant has challenged the order dated 11.12.1998 by which representation of the applicant for being allowed to work again as Sorting Assistant in R.M.S. has been rejected.

The facts in short, giving rise to this application are that applicant was appointed as Sorting Assistant in R.M.S on 6.1.1993. After he completed the training, the applicant claims, that on 6.11.1994 he appeared in confirmation examination and by order dated 1.2.1995 applicant was confirmed. It is submitted that on 24.8.1995 applicant tendered his resignation which was accepted by respondents w.e.f. 3.2.1996. It is claimed

that the resignation was tendred during the period applicant was not mentally sound to judge his action. It is claimed that the applicant was given treatment by doctors and when he became mentally fit, he filed representation for being permitted to work on the post. then he was informed that he has resigned and resignation has been accepted and he is not entitlted to work. Applicant then filed a detailed representation dated 6.11.1998 which has been rejected by the impugned order.

The claim of the applicant has been resisted by filing counter affidavit on behalf of the respondents wherein it has been stated that once the resignation has been accepted, applicant is not entitled for re-employment. It is also submitted that the applicant was never confirmed by letter dated 1.2.1995, applicant was only informed about his success in confirmation examination. The actual order of confirmation was never passed.

The learned counsel for the applicant have submitted that the representation of the applicant has been rejected on the sole ground that there is no provision in the rules for re-employment in such cases. The respondents have neither examined the case of the applicant whether he was suffering from any mental ailment and he had tendered resignation when he was not mentally sound. It is also incorrect that there are no rules for revokation of the resignation. It has been submitted that ~~the~~ rule(4) to Rule 6 of Rule 26 of CCS(P) Rules 1972 is applicable in such situation which correspond to Article 418(b) of Civil Services Regulations. The learned counsel has submitted that the order passed by the respondents suffer from manifest illegality as they have not given any reasons about the mental health of the applicant at the time he tendered resignation and during the period subsequent

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thereto nor had they considered the resignation of the applicant in contest of the relevant rules applicable.

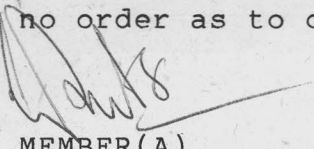
Ms.Sadhna Srivastava learned counsel for the respondents, on the other hand, submitted that the applicawnt was not a permanent employee. He was a temporary servant and the provisions of Rule 26 thus could not be applicable. It is submitted that Annexure II filed by the applicant is only a letter communicating the fact that applicant had passed the confirmation examination. The order confirming the applicant on the post was not then issued. The submission ~~ought~~<sup>is</sup> is that provisions of Rule 26 of Pension Rules, 1972 will not be applicable. It is further submitted that the authority was not required to record any finding about the mental state<sup>of</sup> of the applicant on the date of resignation as it was not claimed and no material was filed alongwith the representation.

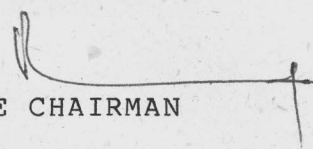
We have carefully considered the submissions of the learned counsel for the parties. However, in our opinion the order impugned in this OA dated 11.2.1998 cannot be sustained for the reason that it has been rejected only saying that there are no rules under which the representation of the applicant could be considered and decided. No other reason has been recorded regarding the case set up by the applicant that he suffered mentally and his physical condition was not such that he could take independent judgement on any matter and the resignation letter if submitted in such a mental condition, it could be treated as nullity. In our opinion, the matter requires fresh consideration by respondents in the light of the observations made in this order and the provisions contained in Rule 26 of CCS(Pension) Rules 1972.



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The OA is accordingly allowed. The order dated 11.12.1998 is quashed. The respondents are directed to reconsider the representation of the applicant in the light of the observations made above and the rules applicable and pass a reasoned order within a period of three months from the date a copy of this order is filed. there will be no order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 30th January, 2002

Uv/

MA 2512/02

OA 476/99

20/8/02

Hon Mr Justice R.R.K. Trivedi, VC


Hon Maj Gen K.K. Srivastava, AM

Sr C. Prasad brief holder of  
Sr RC Joshi for the respondents.

By MA 2512/02 the respondents  
have prayed for 3 months further time  
to comply with the order dated 30.1.02  
passed in OA 476/99. This MA was  
filed on 28.5.02, about 3 months have  
already passed.

Considering the facts & circumstances  
this MA no 2512/02 is disposed of  
granting one month's further time to  
comply with the order.

  
AM

  
VC

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