

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 22nd day of January 2003.

Original Application no. 24 of 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Administrative Member.

Surendra Pal, S/o Sri Lal,
R/o Village Nagla Bhoj,
Post Maman Bharthana,
Distt. Etawah.

... Applicant

By Adv : Shri O.P. Gupta

Versus

1. Senior Superintendent R.M.S.,
(K.P.) Division Kanpur.
2. Director General,
Department of Posts,
Ministry of Communication, Dak Bhawan,
Sansad Marg,
New Delhi.
3. Union of India, through Secretary,
Ministry of Communication, Govt. of India,
New Delhi.

... Respondents

By Adv : Sri R.C. Joshi & Sri G.R. Gupta

ORDER

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

By this O.A., filed under section 19 of the A.T. Act, 1985, the applicant has challenged order dated 22.8.2002 by which his representation has been rejected.

2. The facts of the case are that the applicant was selected as an out sider candidate for the post of Sorting Assistant in the Postal Department. He was sent for training to PTMG, Saharanpur, which commenced w.e.f. 6.10.1992 to

19.12.1992. After the applicant completed his training, he was allowed to join on 6.1.1993. Thereafter, the applicant completed confirmation examination in the year 1995, the certificate to this effect has been annexed as annexure 2. The applicant, however, tendered resignation on 24.8.1995 stating that he desired to take care of his old parents and agriculture land in his village. His resignation was accepted on 26.2.1996 in terms of Rule 5 of CCS (Temporary Service) Rules 1965. The applicant was relieved on 21.3.1996. Thereafter, the applicant made an application on 9.9.1996 and requested for return of his original marks sheet and other certificates. The certificates and the marks sheet were returned to the applicant on the same day. The applicant then filed an application on 13.2.1998 i.e. nearly after 2 years and requested for his reappointment and for withdrawal of his resignation. This application was rejected on 11.12.1998. Aggrieved by which, the applicant filed O.A. no. 476 of 1999 in this Tribunal, which was disposed of on 30.1.2002. The relevant paragraph, on the basis of which the OA was allowed, is being reproduced below :-

"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 judgment 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."

3. In pursuance of the direction of this Tribunal the representation of the applicant has been re-considered and decided by the impugned order dated 22.8.2002. The authority deciding the representation has recorded the finding that the applicant did not suffer from any mental ailment. The finding recorded in the impugned order is being reproduced below:-

"The contention of the applicant that the resignation was tendered as his mental condition was abnormal seems to be an after thought in the light of his letter dated 13.2.98. It has been reported by the office of the Postmaster General, Kanpur that the ex-official never gave information about his ^{his} mental condition before submission of his representation to the Department for reappointment. In his ^{resignation} letter he had mentioned that he desired to take care of his parents and agriculture in his own village and therefore, his resignation be accepted. On 9.9.1996 i.e. within six months of acceptance of his resignation he had requested for return of his original certificate and mark sheet. This clearly establishes that his mental condition was normal. No reliance can be placed on the medical certificate dated 24.6.98 issued by Dr. S.K. Gupta, former Resident Medical Officer, S.N. Medical Collage and Hospital, Agra relating to the treatment of the applicant from 24.3.1996 to 23.6.1998 as the period of treatment mentioned in this certificate was after his resignation from service."

From the aforesaid finding of fact recorded by the authority subordinate, it is clear that the theory set up by the applicant that his mental condition was abnormal, has not been accepted.

The conclusion drawn is that he did not suffer from any mental ailment. He did not report about any such trouble before he was

relieved from the post, etc.

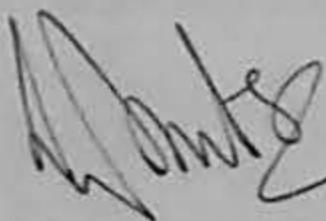
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4. Sri O.P. Gupta, learned counsel for the applicant However, submitted that the certificate filed by the applicant alongwith this OA clearly shows that the mental trouble started on 28.8.1995 (Ann 3) when he got treated by Dr. S.K. Gupta. He has further placed before us prescription which related to the period between 1995 to 1998. It is not disputed that Dr. S.K. Gupta was a private doctor and, therefore, the respondent no. 2 has not placed reliance on the medical certificate and prescriptions filed by the applicant. There is ~~no~~ further reason to agree with the finding recorded by respondent no. 2 in the prescription dated 16.1.1996 which was by the ~~same~~ doctor in Jashwant Nagar, Etawah. By this certificate dated 22.1.1996, the applicant was referred to the Mental Hospital, Agra, which is a Govt. hospital. However, the applicant has not filed a single document showing opinion of the doctor of the Mental Hospital Agra about his mental condition. If he was referred to Mental Hospital Agra it would not have been difficult for him to produce prescription or certificate obtained from the said hospital, which is a Govt. hospital. In the circumstances we do not find any illegality in the view taken by the respondent no. 2.

5. The second submission of learned counsel for the applicant is that the order is bad, as respondent no. 2 has not accepted that the applicant is a Govt. servant. With reference to Rule 2 of CCS (Pension) Rules 1972, it has been submitted that the applicant was appointed after due selection and he joined the post and he also passed the confirmation test and, thereafter, he was confirmed on the post. To this extent the submission of learned counsel for the applicant appears

to be justified. The applicant was appointed substantively and had also passed the confirmation test. Thus he was a Govt. servant when he tendered resignation on 24.8.1995, which was accepted on 26.2.1996. However, this finding is not very relevant as the resignation tendered by the applicant ~~has been found to be conscious decision taken~~ ^{and his acceptance is taken} by the applicant with full mental alertness. The finding recorded is that he did not suffer from any mental disorder. In the circumstances the order passed is justified and does not call for any interference by this Tribunal. The OA is rejected accordingly.

6. There shall be no order as to costs.



Member (A)



Vice-Chairman

/pc/