

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

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O.A. No. 55 1987
~~*****~~

DATE OF DECISION 5.4.1990

Mr. C.L. Kataria Petitioner

Mr. J.D. Ajmera Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. A.V. Haridasan Judicial Member

The Hon'ble Mr. M.M. Singh Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

O.A. No. 55 of 1987

Mr. C.L. Kataria,
C/o. Dr. Mrs. L.C. Kataria (MD)
B/2 Govt. Officers Quarters,
1st floor, D/17(E.S.I.S.)
Saraspur,
Ahmedabad - 380 018.
(Advocate-Mr. J.D. Ajmera)

.. Applicant

Versus

1. Union of India,
Through
General Manager, W.Rly.,
Churchgate, Bombay.
2. Divisional Railway Manager,
W.Rly., Kothi Compound,
Rajkot.
(Advocate-Mr. B.R. Kyada)

.. Respondents

O R A L - O R D E R

Date : 5.4.1990

Per : Hon'ble Mr. A.V. Haridasan .. Judicial Member

Neither applicant nor his counsel present. Learned counsel for the respondents present. As the applicant and his counsel are not present, we have to be satisfied by going through the records and also by hearing the arguments of learned counsel for the respondents. The prayer in the application filed under section 19 of the Administrative Tribunals Act, 1985, is that the respondents may be directed to allow the applicant to resume duty with full back wages and continuity of service and other incidental benefits. The short details of the facts averred in the application are as follows.

The applicant was working as District Extension Educator in Rajkot division, while so to his surprise he received a letter from the D.M.O. (E) Rajkot dated 13.3.1985 stating that his resignation letter dt. 6.2.85 was accepted and that he was relieved from service.

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The applicant had not really sent such a letter of resignation. Therefore on 26.3.1985, he sent a letter to the D.R.M., W.Rly., Rajkot explaining that he had never given such a letter and that ^{at} there was a mischief done by some of his enemies. It was further stated in that letter that as the resignation letter could be withdrawn within a period of three months, it could be deemed that he had withdrawn the letter of resignation and that he should be allowed to resume duty. Again on 15.4.1985, the applicant offered to resume duty but he was not permitted to do so. Being aggrieved by the action of the respondents, the applicant has filed this application for the reliefs of being permitted to resume duty with back wages and attendant benefits. The application has been resisted by the respondents. It has been contended in the reply statement that the applicant had sent unconditional letter of resignation on 6.2.1985, that he had thereafter sent a telegram requesting the railway authorities to relieve him forthwith, that this resignation was accepted by the competent authority on 16.2.85 and that this fact was communicated to the applicant by the letter dt. 13.3.1985 of the D.M.O. (E) and that the Annexure 'C' letter written by the applicant on 26.3.1985 ^{disowning the} ~~his own~~ letter of resignation being only an after thought, the applicant is not entitled to any relief. It is further contended that though ^{an} the employee is entitled to withdraw the letter of resignation within a period of three months before its acceptance by the competent authority, In this case as the unconditional letter of resignation had already been accepted, the applicant was not entitled to withdraw the same thereafter and therefore there is absolutely no merits in the application.

3. On perusal of the documents and on hearing the

learned counsel for the respondents, we are convinced that the case of the applicant that he did not send a letter of resignation on 6.2.1985 is absolutely false and that it is only an after thought. Annexure 'A' is the letter of D.M.O.(E) communicating to the applicant the fact of the acceptance of the resignation submitted by him which reads as follows :

"As requested and submitted by you your unconditional resignation vide application dtd. 6.2.1985 copy enclosed has already been accepted from 6.2.1985. But by the competent authority vide this notice memorandum of above No. dtd. 16.2.1985."

In this communication the application dt. 6.2.85 and 7.3.85 and reply ^{said} by the telegram dt. 7.3.85 have been referred to, curiously enough on 13.3.1985 itself the applicant has sent to the D.R.M., Rajkot a letter which is produced as Annexure 'B', it reads as follows :

" Sub : Withdrawal of resignation and allowing to join duty.

Sir,

I have to invite your kind attention on the following points for which immediate compliances may kindly be made.

1. The resignation can be withdrawn within a period of three months from the date of tendering it. In this connection the stipulated period is not over and therefore this is treated as withdrawn and I am on Railway duty.
2. The resignation acceptance letter is also not received by me and therefore I am sure that my resignation is not accepted yet. Even though as per three months' rule, I am eligible to withdraw the same but the acceptance letter is not served either by post or railway services.

3. For want of your compliances, it is delayed to join and as such you are requested to let me know at the earliest and oblige.

Thanking you,

Yours faithfully,

Sd/-
(C L Kataria)"

It is after sending this letter that the applicant has sent Annexure 'C' letter on 26.3.1985 in which he had stated that he has not really sent the resignation letter dt. 6.2.1985, that the letter would have been sent by some person deliberately to damage him and that even if the resignation letter is given it was within his right to withdraw the same before the expiry of a period of three months. Reading the letters Annexure 'B' and 'C' independently ^{the} only ~~the~~ conclusion which ^{that} can be arrived at is that the applicant has submitted a letter of resignation on 6.2.1985. ⁹⁶ ~~even~~ in fact he had not submitted such a letter of resignation in the first letter written by him i.e. in Annexure 'B' dt. 13.3.85 he would have stated that he had never ^{Sent} ~~signed~~ a resignation letter and that the resignation letter was a ^{of some body else} ~~creation~~. Since there is no ^{averment} ~~intimation~~ in Annexure 'B', letter that the resignation letter was not really written by him it is futile to attain that the applicant has not written the resignation letter. In addition to the resignation letter a letter dt. 7.3.1985 and a telegram dt. 7.3.1985 have also been referred to in Annexure A-1. There is no explanation about them in the application. The applicant has also not stated anything about his letter dt. 13.3.1985 Annexure 'B' ^{Though} ~~that~~ he has produced the same.

Therefore the ^{irresistible} ~~unacceptable~~ conclusion ^{is} that ^{irresistible}

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Can be reached is that - m

the applicant had submitted a letter of his resignation on 6.2.1985. It is open for ^{an} the employee who has tendered ^a the letter of resignation to withdraw the same within ^{had} three months, provided that the resignation has not been accepted by them. In this case, even before the withdrawal of the resignation by Annexure 'B' letter ^m was sent by the applicant, the competent authority had already accepted resignation and ~~that~~ fact had been communicated to him by letter dt. 13.3.1985 Annexure 'A'. In this back ground, we find that there is absolutely no merit in the application.

In view of what has been stated in the foregoing paragraphs, the application fails and the same is dismissed. We do not make any order to costs.

M. M. L.

(M M Singh)
Administrative Member

A. V. Haridasan

(A V Haridasan)
Judicial Member

*Mogera