

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 268 OF 1993.

CUTTACK, this the 29th day of JANUARY, 1999.

ALEKH CHARAN BEHERA. APPLICANT.

-Versus-

UNION OF INDIA & ORS. ... RESPONDENTS.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE - CHAIRMAN

....

6

5

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.268 OF 1993.

Cuttack, this the 29th day of January, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL) .

....

Shri Alekh Dharan Behera,
Aged about 40 years,
S/o. Dhruba Ch. Behera,
Vill./PO. Gopiakud, Via. Kujang,
Dist. Jagatsinghpur.

... APPLICANT.

By legal practitioner : Mr. Pradipta Mohanty, Advocate.

- Versus -

1. Union of India represented by Director General (Posts), Dak Bhawan, New Delhi-1.
2. Chief Post Master General, Orissa Circle, Orissa, At/Po. Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices, Cuttack South Division, Cuttack Town, At/Po/Dist. Cuttack.
4. Sub-Divisional Inspector, Kujang Postal Sub Division, At/Po. Kujang, Dist. Jagatsinghpur.

... RESPONDENTS.

By legal Practitioner: Mr. Anup Kumar Bose, Senior Standing Counsel (Central).

....

S. Som.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Departmental Authorities to dispose of the applicant's representation dated 20-7-92 (Annexure-3), another representation which was received as per the Postal receipt at Annexure-4, representation at Annexure-5 for withdrawal of the resignation of the Applicant from the post of Extra Departmental Delivery Agent of Gopiakud Branch Post Office, to re-instate/re-appoint the applicant in the said post and to grant leave for his absence from duty due to his illness. By way of interim relief, it has been prayed that Respondents should be directed not to hold the regular recruitment for filling up of the post of Extra Departmental Delivery Agent, Gopiakud Branch Post Office on regular basis. On the date of admission, prayer for interim relief was disposed of with a direction that the result of this application would govern the future service benefits of the applicant and the appointee should be specifically informed in writing that his/her appointment is subject to the ultimate result of this application.

2. Facts of this case, according to the applicant, are that he was working as E.D.D.A. Gopiakud Branch Post Office for about fifteen years. He fell ill for sometime and applied for leave but the S.D.I.P., Kujanga, Respondent No. 4, refused to grant him leave and forced him to tender his resignation from the post of E.D.D.A., Gopiakud Branch Post Office. It is stated that

Som,

Respondent No.4 threatened to take co-ercive action against the applicant ,if he did not resign from the post of E.D.D.A., Gopiakud Branch Post Office.Under these circumstances the applicant was forced to submit his letter of resignation even though, he was not willing to resign because the job was the only source of his income.On receiving the resignation letter dated 2-5-1992, Respondent No.4 forwarded the same to the Respondent No.3 for acceptance copy of the forwarding letter dated 24-5-1992 is at Annexure-1.It is further stated that Respondent No.4 in a letter dated 22-7-1992 intimated the applicant that his resignation letter has been accepted and intimation to that effect sent to him earlier on 25.5.92 was returned with the postal remarks "REFUSED".Applicant's case is that he never received the letter dated 25-5-1992.He,however, received the letter dated 22-7-1992 which is at Annexure-2. In the meantime,applicant filed an application dated 20-7-1992 in which he stated that because of his illness and imbalanced mental condition,he had tendered the resignation.He has been ousted from employment since 23-5-92 and therefore,he prayed for withdrawal his resignation and for grant of leave and to allow him to join the post again but no order was passed on his representation at Annexure-3.He sent another representation postal receipt of which is at Annexure-4.The wife of the applicant,has sent a further representation at Annexure-5.The above numerous representations have been made by the applicant to the Departmental Authorities but without any result.Because of this, the applicant has come up in this Original Application with the prayer referred to earlier.

8

3. Respondents, in their counter, have submitted that the resignation of the applicant was accepted and intimation was sent to him but he refused to accept the said intimation and later on ~~representation~~ ^{J.J.M.} on 21-7-1992 to withdraw his earlier resignation letter. He was informed by Regd. Post on 22-7-1992 that his resignation has been accepted and acceptance memo also sent to him. After that, the applicant has come up with this petition. It is stated by the Respondents that the applicant never applied for leave and therefore, his plea that he was ill and non-granting of leave has led to submission of resignation by him are not correct. It is stated that he submitted his resignation on his free will and not because of any pressure from any quarter. Respondents have made other averments with regard to their attempts to serve the copy of the acceptance letter to the applicant. To sum up, the stand of the Respondent is that as the applicant has resigned voluntarily and the resignation having been accepted, he was ~~ceased to work~~ and therefore, it is not open for him to press for withdrawal of the same.

9

4. The petitioner has mentioned in his Original Application that because of pressure of Respondent No. 4, he was forced to resign but in his representation at Annexure-3, which is dated 20-7-1992, he does not say that there was any pressure ~~from~~ any quarter to resign. He has also stated that ^{J.J.M.} he was suffering from illness and had applied for leave. Respondents have pointed out that he did not apply for leave and no leave application was there. This contention is also, therefore, can not be accepted. It must, therefore, be held that the applicant, whatever the reasons, ~~tendered~~ resignation

voluntarily and not because of the pressure on him by any other person more particularly Respondent No. 4. The settled position of law is that once resignation is accepted, there is no scope ordinarily, to withdraw the same. In this case, the resignation letter dated 02-5-1992 was accepted 24.5.92 and intimation was sent to the applicant. Applicant has stated that this intimation was not received by him. But infact, the letter sent to him came back with postal endorsement that he has refused to accept the letter. In view of this, he can not take the plea that he has not received the letter accepting his resignation. Subsequently, another letter was sent to him by Regd. Post on 22-7-92. Applicant's letter for withdrawal of his resignation was received on 21.7.92. But this will not improve his position because his resignation was originally accepted on 24-5-1992 the date from which he voluntarily absented himself from his duty. As per his representation at Annexure-3, he could not have legally withdrawn his resignation.

5. In the result, we hold that the applicant has not been able to make out a case for ^{any of} the reliefs sought for by him in the Original application. The Original application is, therefore, rejected but in the circumstances no order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
29.7.99

KNM/CM.