

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

O.A. No. 49/1998  
T.A/No.

1998

DATE OF DECISION 07.09.1999

MAHAVEER CHAND SINGHVI Petitioner

MR .M.S .S INGHVI Advocate for the Petitioner (s)

Versus

UNION OF INDIA AND ANOTHER Respondent

MR .K.S .NAHAR Advocate for the Respondent (s)

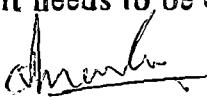


CORAM :

The Hon'ble Mr. A.K.Misra, Judicial Member

The Hon'ble Mr. N.P.Nawani, 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 ?

  
( N.P.NAWANI )  
Administrative Member

  
( A.K.Misra )  
Judicial Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

Date of order : 07.09.1999

O.A.NO. 49/1998

Mahaveer Chand Singhvi aged about 25 years, S/o Shri Tara Chand Singhvi, by caste Singhvi 'Oswal', R/o House No. 1164, Behind Gulab Bai Mehta School, Sojat City, Dist. Pali. Appointment to the post of Indian Postal Service, Group 'A' on the basis of Civil Services Exams. 1994.

.....APPLICANT.

VERSUS

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Government of India, Dak Bhawan, New Delhi.
2. The Assistant Director General (SGP), Ministry of Communication, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.

.....RESPONDENTS.



CORAM :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

Mr. M.S. Singhvi, Counsel for the Applicant.

Mr. K.S. Nahar, Counsel for the respondents.

PER HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER :

The applicant has filed this application with the prayer that the orders dated 24.6.1996 (Annex.A/1) cancelling the offer of appointment to Indian Postal Service and 19th of December, 1997 (Annex.A/2), rejecting the representation of the applicant be quashed; it may be declared that the applicant's letter of resignation dated 15.5.1996 was ineffective and the respondents be directed to impart probationary training to the applicant and after such training, the applicant be appointed to the Indian Postal Service Group 'A', with all consequential benefits including the assignment of seniority with the batch of 1994.

2. Notice of the O.A. was given to the respondents who have filed the reply to which the applicant has also filed a rejoinder.

3. It is alleged by the applicant that he successfully appeared in Civil Services Examination 1994 (for short "CSE 1994"). Thereafter, as per the result of the interview, the applicant was allotted Indian Postal Service Group 'A' (for short "IPS Group 'A'"), and was asked to join foundational course commencing from 4.9.1994 vide letter Annex.A/3 issued by the Department of Personnel and Training (for short "DOP&T"). The applicant, thereafter, accepted the allotment of Indian Postal Service vide his letter dated 10.8.1995, Annex.A/4. In the same application, the applicant sought exemption from joining foundational course on the ground that he was a candidate for CS Examination 1995. The application of the applicant was accepted by the DOP&T vide its letter dated 16.11.1995, Annex.A/5. Thereafter, vide communication dated 3.1.1996, Annex.A/6 applicant was offered appointment in the IPS Group 'A' junior time scale by the Ministry of Communication. The applicant was finally allotted IPS service Group 'A' vide DOP&Ts communication dated 29.2.1996, Annex.A/6-A. It is further alleged by the applicant that in the month of May 1996 while the applicant was at Delhi somebody in the Department of Personnel, informed him that unless he resigns from the service he would not be able to get allotment to any other service in pursuance of CSE of 1995. Accordingly, the applicant submitted his resignation letter dated 15.5.1996, Annex.A/7, to the respondent No. 2, stating therein that it would enable the applicant to be eligible for another CS Examination 1995. This letter was delivered by the applicant in person to the respondent No. 2 on 24.5.1996. It is further submitted by the applicant that when he came back to Pali, he came to know that it was not necessary for him to have submitted letter of resignation for being eligible for allotment of any other service as per the result of CSE 1995. Therefore, the



applicant, in order to withdraw his earlier resignation, prepared an application on 26.5.1996 (Annex.A/8) requesting the respondents not to act upon the communication relating to resignation from IPS Group 'A'. This letter could not be delivered in person as the applicant fell ill. This letter was sent to the respondents by the registered post on 19.6.1996 which was received by the respondents on 25.6.1996. In spite of receipt of the letter by the respondents withdrawing the resignation, the respondents vide their communication dated 24.6.1996 <sup>Annex.A/1</sup> accepted the letter of resignation of the applicant dated 15.5.1996 treating that to be an unwillingness of the applicant to join services as offered to him vide their communication Annex.A/6. Annex.A/6 is sought to be quashed by the applicant in this O.A. The applicant has further alleged that after that applicant made innumerable efforts in person as well as through representations to the various authorities for restoration of offer of appointment on the post of IPS Group 'A' which was cancelled by the respondents vide their communication Annex.A/1 acting on the applicant's letter dated 15.5.1996, but without any result.

4. The applicant has challenged the cancellation of offer (Annex.A/1) by the respondents on the ground that the applicant had not joined the service as offered by the respondents and therefore, there was no question of submitting any resignation. The so called letter of resignation was in fact in-effective and could not have been acted upon legally by the respondents. The so called resignation was made with a clear stipulation that it was being submitted by the applicant to enable him to appear in CSE 1995. Therefore, the same was not legally acceptable by the respondents and the applicant had withdrawn the same by letter dated 26.5.1996 before the respondents could accept the same vide their communication dated 24.6.1996.

5. The respondents have stated in their reply that the applicant vide its communication dated 15.5.1996 submitted his

(1)

resignation for personal reasons and delivered the same in person. This letter of the applicant in any case constituted his inability to accept the offer of appointment on the post of IPS Group 'A'. It is further contended by the respondents that letter of the applicant withdrawing the earlier resignation was received by the Department on 25.6.1996 although, the letter was dated 26.5.1996. Before the aforementioned communication was received by the Department, Annex.A/1 dated 24.6.1996 was issued and the offer of appointment was cancelled. The representations of the applicant were considered by the Department and the applicant was informed vide communication dated 19.12.1997 (Annex.A/2) that the question of revival of the offer of appointment does not arise, therefore, further repeated representation are of no importance. Since the applicant himself had declined to accept the offer, therefore, the offer was cancelled as per rules. The action of the respondents is legally supported by rules, therefore, the applicant is not entitled to any relief. The O.A. deserves to be dismissed.



6. We have heard the learned counsels for the parties and gone through the file. Both the learned counsels of the parties elaborated their stand as was taken by them in their respective pleadings.

7. The learned counsel for the applicant has argued that the applicant had not joined the IPS Group 'A' service by joining the foundational course, therefore, there was neither any necessity to submit any resignation nor the letter of resignation submitted by the applicant can strictly be construed as a resignation to be accepted by the respondents. On the other hand, it was argued by the learned counsel for the respondents that the applicant has consciously refused to accept the offer of appointment by writing a resignation letter which was considered as a letter intimating the applicants inability to join the service offered by the respondents. It can as well be construed as refusal of the offer and that is why in the

(2)

Annex.A/1 it has been clearly mentioned that due to unwillingness to join the service, the offer is hereby cancelled. Therefore, the action of the respondents is perfectly valid.

8. The learned counsel for the applicant had cited (i) AIR 1992 SC Page 1 - Mohan Kumar Singhania and Ors. Vs. U.O.I. and Ors. (ii) (1994)"6 SLR Page - Dr.Ram Prashad Bansal Vs. U.O.I. & Ors. and (iii) AIR 1981 Raj. Page 315 - Suresh Chandra Vs. State and Others, in support of his arguments. While there cannot be any dispute in respect of principle laid down in these rulings the same cannot be made applicable in the instant case because of difference of facts. The Rules propounded therein are based on different context and different set of facts than the one in hand. No doubt, if somebody is not in service, there is nothing for him to resign but in the instant case, the resignation of the applicant is in fact a refusal/inability to join the services offered. This aspect would be discussed in subsequent paras.

9. We have considered the rival arguments. The relevant portion of Clause IV of Notification dated 24.12.1994 is quoted as under :-

"(a) if a candidate allocated to the IPS or a Central Service, Group 'A' on the results of the Civil Services Examination, 1994 shall be eligible to appear at the examination being held in 1995 only if he has obtained permission from Govt. to abstain from probationary training in order to so appear. If in terms of the provisions contained in Rule 18, such a candidate is allocated to a Service on the basis of the examination being held in 1995, he shall join either that service or the Service to which he was allocated on the basis of the Civil Services

Examination, 1994 failing which his allocation to the Service based on one or both the examinations as the case may be, shall stand cancelled; and

(b) A candidate allocated or appointed to the IPS/ Group 'A' service/post on the basis of the Civil Services Examination held in 1993 or earlier years shall not be eligible to apply for Civil Services (Preliminary) Examinations to be held in 1995; unless he first gets his allocation cancelled or resigns from the service/post."



10. It would be clear from the Proviso (a) that after obtaining permission from the Government a candidate can abstain from probationary training in order to appear in subsequent examination, in this case Examinations of the year 1995. The applicant had already obtained permission of the Government vide Annex. A/5 dated (illegible). Vide Annex.A/5, the applicant was further requested to read the rules for competitive Civil Service Examination of the year 1995. In view of this Proviso (a) of Rule 4 of the Rules and the communication (Annex.A/5), the applicant was not required to submit his resignation but the applicant had submitted his resignation which in our opinion can legally be construed as refusal/unwillingness to join the Indian Postal Service. The letter of resignation of the applicant is dated 15.5.1996 which was delivered in person by the applicant on 24.5.1996, as mentioned in the rejoinder. The applicant has not disclosed as to under whose advise he had moved the letter of resignation. The applicant had enough time at his disposal to reconsider his action of refusing/resigning from the IPS Group 'A' but he did not do so. Therefore, it is difficult to believe that acting on somebody's wrong advise, applicant had submitted letter of resignation dated 15.5.1996. As is clear from the pleadings in O.A. the applicant is a well qualified, well read and a brilliant candidate. Therefore, it is all the more surprising that applicant had put in so called letter of

resignation at somebody's advise without application of his own mind. In fact, it appears that applicant at that point of time had no idea to join the services offered and consequently he termed his letter of refusal as letter of resignation. In our opinion, the respondents have committed no mistake in treating the letter of the applicant dated 15.5.1996 as a letter of unwillingness to join IPS as offered.

11. It was argued by the learned counsel for the applicant that there was no occasion or necessity for the applicant to have refused the offer because he had accepted the same in the past vide his communication dated 10th of August, 1995, Annex.A/4. We have considered this argument. There is no bar on any candidate to refuse the offer which he had once accepted in the past. If the action of the applicant of submitting his letter dated 15.5.1996 is considered with reference to Annex.A/6 dated 3.1.1996, it would be clear that he had addressed the letter of resignation to put to a rest repeated communication of offer of IPS Group 'A' and reminders by the respondents. Therefore, the arguments of the learned advocate do not help the applicant.

12. No doubt, the applicant had subsequently moved an application to withdraw the letter dated 15.5.1996 but that letter was received by the respondents on 26.6.1996 when they had already accepted the letter of the applicant dated 15.5.1996 and despatched the impugned communication Annex.A/1 by speed post. At the time of issuing this communication, there was nothing with the respondents to come to the conclusion that applicant had withdrawn the so called letter of refusal to accept the offer. Therefore also, the action of the respondents cannot be faulted.

13. It was further argued by the learned counsel for the applicant that the letter of resignation cannot be a conditional

one but the letter of the applicant dated 15.5.1996 contains a paragraph intimating the respondents that this resignation would render him eligible for another Group 'A' service as well, including Indian Postal Service apart from IAS, IPS and IFS, therefore, the letter dated 15.5.1996, Annex.A/7, cannot be termed as an un-qualified refusal or resignation and, therefore, should not have been accepted by the respondents. We have considered this aspect but are unable to agree to this argument. The applicant in the first paragraph of his letter dated 15.5.1996 has very clearly stated that on account of personal reasons and on account of his own wish, he resigns from IPS Group 'A'. If he intended to resign only on account of appearing in subsequent Civil Services Examination, he could have mentioned that fact without mentioning the fact of resignation on account of own will and personal reasons. It appears that applicant had something else in his mind while he has attached condition of being eligible for another Group 'A' service in his letter.

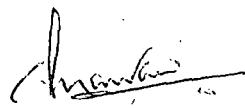


14. Even if, the arguments of the learned counsel for the ~~then also the~~ <sup>can not be</sup> applicant is accepted ~~as~~ claimed relief ~~as~~ granted to the ~~because~~ applicant it would amount to unsettle the settled position. By this time the 1994 Batch-mates of the applicant must have undergone the training, shouldered the responsibilities, gained experience and must have worked out their seniority and promotion etc. Reinstatement of applicant's position, as claimed for allowing him to join his original position, would unsettle their position and affect number of candidates adversely, who might have subsequently been appointed in the services. Therefore, the applicant cannot be given the benefit as claimed by him treating his letter of resignation as communication of no importance and of no consequence. The applicant had filed this O.A. in the year 1998. Subsequent to 1994 and before filing this O.A. minimum two batches or may be

more, must have been selected, undergone the training and posted on various posts; therefore, the applicant's claim would unsettled the well settled set-up in the Department, which, Law would not permit. Equity cannot be a guiding factor in such matters for granting the relief as claimed by the applicant.

15. In view of the foregoing discussion, we come to the conclusion that impugned orders dated 24.6.1996, Annex.A./1 and 19.12.1997, Annex.A/2, are not liable to be interfered with as they are perfectly legal and in order. The applicant has not been able to make out a case for grant of relief directing the respondents to impart probationary training to the applicant for Indian Postal Service, Group 'A' on the basis of Civil Service Examination, 1994, and appointment in the said service, with consequential relief as claimed by the applicant. The O.A. in our opinion, deserves to be dismissed.

16. The O.A. is, therefore, dismissed. The parties are left to bear their own costs.

  
(N.P. NAWANI)  
Administrative Member

  
(A.K. MISRA)  
Judicial Member

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