

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 97/2007

Date of Order: 4-2-2011

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

R.K. Rawal S/o Shri D.R. Rawal, aged about 48 years, Resident of V & P Nitora Via Sarooganj, District Sirohi, Rajasthan, Ex-GDSBPM, Nitora P.O., District Sirohi, Rajasthan.

...Applicant.

Mr. S.K. Malik, counsel for applicant.

VERSUS

1. Union of India through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Post Master General, Western Region, Jodhpur.
4. The Superintendent of Post Offices, Sirohi Division, Sirohi.

... Respondents.

Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, Member (J)

The applicant, R.K. Rawal, who is Ex-GDSBPM of Nitora P.O., District Sirohi within the State of Rajasthan, has preferred this Original Application praying therein to quash and set aside the order dated 28.10.2005 (Annexure A/1) passed by the respondent no. 4, whereby his request for withdrawing his resignation was rejected.

2. The brief facts of the case are as follows:

The applicant was initially appointed on the post of Extra Department Branch Post Master (EDBPM) vide SPO, Sirohi,

Memorandum No. H/PF-287, dated 11th March, 1987 w.e.f. 06th May, 1982 and since then he continued on the said post. In the year 2005, the applicant wished to contest the election of Village *Sarpanch* and for that purpose he sent his resignation from the post of EDBPM vide his application dated 13th January, 2005 (Annexure A/2). On receipt of the said application, the respondent no. 4 vide his letter dated 19.01.2005 refused to accept the same on the ground that the resignation is a conditional one. The respondent no. 4 also asked the applicant that if he wanted to resign from his post, he should submit unconditional resignation. Thereafter, the applicant vide his application dated 22.01.2005 (Annex. A/4) submitted his unconditional resignation. The respondents vide letter dated 31st January, 2005 accepted the resignation of the applicant with immediate effect. Accordingly, the applicant was relieved from the duty of GDSBPM on 02nd February, 2005 to contest the election of Village Sarpanch, but unfortunately, the applicant lost the election of Village Sarpanch, and then on 7th February, 2005, he submitted an application to the respondent No. 4 to re-appoint him on the earlier post i.e. GDSBPM vide annexure A/6. Then again on 05.04.2005, the applicant submitted another application, and when no reply was received, the applicant submitted application dated 15th August, 2005 before the respondent no. 3. However, by impugned order dated 28.10.2005 (Annexure A/1), the respondent no.4 without assigning any reason rejected the application of the applicant. The said order, which is annexure A/1, is under challenge. The

applicant preferred appeal before the respondent no. 2 but when no order was passed, the applicant filed this Original Application.

3. On filing of the Original Application, the notices were issued to the respondents, and in response to the notices, the respondents appeared through lawyer and filed reply. As per the reply of the respondents, the request of the applicant for withdrawal of his resignation was not acceptable as per Rule as it is settled law that after acceptance of resignation and its execution, it cannot be withdrawn.

4. Shri S.K. Malik, learned advocate argued the case on behalf of the applicant, whereas Shri M. Godara, learned proxy counsel, argued the case on behalf of the respondents.

5. The contention of the learned advocate of the applicant is that as per sub-rule (4) to (6) of Rule 26 of the CCS (Pension) Rules, 1972, the withdrawal of resignation, even it has become effective and even after relinquishment of the charge by the Government servant, is permissible under law, and as such the applicant has come before this Tribunal for quashing and setting aside the impugned order Annexure A/1, which is a non-speaking order and not in accordance with law.

6. On the other hand, the contention of the learned advocate of the respondents is that CCS (Pension) Rules, 1972, is not applicable to the applicant as he is a Postal Employee for whom there is a separate rule namely GDS (Conduct & Employment) Rules, 2001. He further submitted that even if it is held that CCS

(Pension) Rules, 1972 will be applicable in the case of the applicant for considering the withdrawal of his resignation, then in that case, he has to establish that there was compelling reasons due to which the resignation was tendered by him, but due to material change in the circumstances, he is making prayer for withdrawal of resignation. We fully agree with the contention of the learned advocate of the respondents and we feel that the applicant's decision to contest the election of Village *Sarpanch*, and, for that purpose, tendering of his resignation cannot be considered as compelling reasons for tendering resignation by the applicant. Our view is that decision of contesting election is purely a Will of a person, and it cannot be brought into the ambit of "compelling reasons". The material brought on record shows that the sole reason for tendering the resignation by the applicant was to contest the election of village *Sarpanch*, which unfortunately he has lost. Since the decision to contest the election of village *Sarpanch* was purely of the choice of the applicant, so it cannot be held that the applicant had tendered his resignation due to some compelling circumstances / compelling reasons and such withdrawal of resignation is not even permissible under CCS (Pension) Rules, 1972 as relied by the applicant. Moreover, Rule 22 of GDS (Conduct & Employment) Rules, 2001 prohibits a GDS, employee from taking part in election or joining any political party. Rule 22 sub-rule (1) & (4) of the said Rule are relevant which are being reproduced below:

"22. Taking part in politics and election

(1). No Sevak shall be a member of, or be otherwise associated with, any political party or any organization

which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

XXXXXXX

XXXXXXX

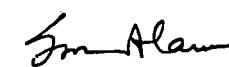
(4). No Sevak shall canvass or otherwise interfere with or use his influence in connection with, or take part in an election to any legislative or local authority:

XXXXXXX"

Thus, we are satisfied that the act of the applicant in contesting the local bodies' election falls within the definition of misconduct in relation to a GDS employee so it cannot come within the purview of compelling reasons for tendering the resignation by the applicant. In such view of the matter, there appears no illegality in passing the impugned order (Annexure A/1) whereby the respondent no. 4 has declined to accept the prayer of the applicant for withdrawal of his resignation.

7. In the result, we do not find any merit in this Original Application, and, accordingly, the same is hereby dismissed. In the circumstances of the case, there shall be no order as to costs.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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मेरी उम्मीदाति में दिनांक
लो वर्ष-II व III वर्ष किंवा वर्ष ।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकारण
जोधपुर न्यायालय, जोधपुर