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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

J...No. 1285/90

Mukul Upreti

Applicant

versus

Union of India

Respondents.

Shri J.S. Singhal

Counsel for Applicant.

Shri A.K. Chaturvedi

Counsel for Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Upadhyaya, Adm. Member,

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed on permanent post of Assistant, Govt. of India, Ministry of Defence, New Delhi on the basis of the result of the Assistants Grade examination 1983, held by the U.P.S.C. While in service, of the Govt. of India, the applicant applied to the National Airports Authority through Ministry of Defence for the post of Aerodrome Officer and he was selected on the post of Aerodrome Officer on the basis of a competitive examination. The selection was subject to passing of the prescribed training at Civil Aviation Training centre, Allahabad. He also applied for Indian Civil Services Examination 1987 which too was allowed. ^{As} the applicant's leave was not being sanctioned, according to him, he had no option but to tender the resignation from service. The resignation letter was in following words:

"I had applied for the post of Aerodrome Officer

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in National Airport Authority through proper channel. As I have been selected for the same, I hereby submit my resignation for your kind acceptance. I may kindly be relieved from the service w/e.f. September, 7th 1987."

It appears that the applicant was relieved on 9.9.87 (vide order dated 9.9.87). It appears that the applicant failed to show the satisfactory progress during the period of training and that is why the competent authority i.e. Airports Authority of India decided to terminate the training with effect from 30.9.89 in terms of para 2 of the offer of appointment. Thus, the applicant could not complete the training and his training came to an end with the result that the applicant ceased to be an employee of National Airport Authority of India. It appears that the applicant subsequently approached the Government; his lien was still subsisting and he may be given appointment to the post of U.D.C. but the request was not heeded to. Thereafter the applicant approached the Tribunal.

2. The learned counsel for the applicant took certain pleas including that the applicant referred to certain provisions of Rules 26 C.A. & L.P.A. and F.A. 12 A, 13, 14 & 14 A.

3. Needless to say that it was not necessary to refer the provisions of above provisions. The applicant moved application on 2nd September, 87 for withdrawal of resignation, it appears that before the joining training which he joined, a few months thereafter, his resignation was not accepted. The file which has been produced in this case

shows that on 7.9.87 a note was put that as there was nothing against the applicant, his resignation may be accepted i.e. 7.9.87 and after that the order was issued. The result was that the applicant ceased to be government servant, as well as the employee of Civil Aviation Deptt. i.e. Airports Authority of India. The learned counsel for the applicant contended that his lien was still subsisting and reference to certain fundamental rules has been made by him. In our opinion, once the resignation, rightly or wrongly has been accepted, the above rules will not apply. So far as the resignation is concerned, the resignation could take effect either on the date chosen by the person concerned or mentioned in the notice or on the expiry of the period prescribed for tendering the resignation. It is open for the employer to reduce the period of requirement of notice but not otherwise. It is open for the employee to withdraw the resignation letter provided it has not been effective. Reference may be made to the case of "Union National Bank vs. P.K. Mishra" (AIR 1989 SC 1083) in which it has been held that "resignation will become effective on expiry of three months from the date of resignation unless it is rescinded by employee." The resignation of the applicant, as he himself gave it and it was accepted by the government, that resignation will be operative with effect from the date he desired.

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In the resignation letter the applicant stated
d. reason why he was signing and that is why
this is not a resignation. The application was for entry
to the Air Force. In the resignation letter
it was stated that he had applied through
proper channel and was selected for the post of Airframe
Officer. He submitted his resignation. The selection of
the applicant was not complete till training was
complete and the applicant could not complete training
and before his actual appointment training came to an
end. The result was that the applicant could not get
the benefit of the training. The result of this was that
the applicant, ~~but~~ with the consent of the Ministry
of Defence joined the Airports Authority of India and
became jobless. The withdrawal application was given
by the applicant within the period. In case of normal
resignation he would have given notice for resignation.
In the circumstances, it was a case in which request for
getting back employment as C.O.C. in the Defence Ministry
was made, and it could have been considered, leaving
aside the technicalities. It should have been considered
in this light. The applicant never wanted to be jobless
and for a better prospect, with the consent of the
Ministry of Defence, he went to the Airports Authority of India.
National Airports Authority of India. xxxxxxxx
Airports Authority of India is a public limited company.

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with the Ministry of Defence, needing to bring the fact
it is an autonomous body in accordance with the constitution
of the Republic. It has strongly been recommended that
withdrawal of the application could have been accepted even
in this case, but it has not been accepted. The
applicant's lawyer for getting such a statement without
giving salary during this time is also synthetically
considered. But for the above mentioned the application
is also dismissed. Let the court decide by the
total expenses of the members of the receipt of the
this part of the expenses.

G. G. G. G.

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Vice Chairman.

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Lucknow: 24.3.52.