

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.81/90.

Date of Judgment 20.9.1991.

M.Lakshminarayana

.. Applicant

Vs.

Union of India
represented by:

1. The Secretary to Govt.,
Department of Posts,
New Delhi.
2. The Chief Postmaster-General,
Hyderabad.
3. The Postmaster-General,
Vijaywada.
4. The Director of Postal Services,
O/o Postmaster-General,
Vijaywada.
5. The Supdt. of Post Offices,
Gudivada. .. Respondents

Counsel for the Applicant : Shri K.S.R.Anjaneyulu

Counsel for the Respondents : Shri N.Bhaskar Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

This application has been filed by Shri M.Lakshminarayana under section 19 of the Administrative Tribunals Act, 1985 against the Union of India represented by the Secretary to Govt., Department of Posts, New Delhi and 4 others.

2. At the relevant time the applicant was L.S.G.

Postmaster. Having put in the required service he gave notice of three months for voluntary retirement vide his application dated 26.8.89. The notice period was to commence from 1.9.89 and expire on 30.11.89. By a letter dated 15.9.89 permission to retire from 1.12.89 f/

was accorded. However, on 25.11.89, within the notice period, the applicant withdrew his notice. Subsequently he was not allowed to continue and he was asked to make over charge on 1.12.89. He represented to the higher authorities and finally by a letter dated 28.12.89 (A.9) the applicant was told that since he already stood retired in accordance with the permission accorded earlier his request for cancellation of voluntary retirement was not possible. It is against this that the applicant has approached the Tribunal now praying for the quashing of this letter and for continuing in service.

3. The respondents have filed a counter affidavit and oppose the prayer. It is stated that permission to retire was accorded well in time. However, since the applicant submitted his application for withdrawal of the voluntary retirement only on 25.11.89, just a few days before the expiry of the notice period there was not much time left to examine the application and the applicant was retired on 1.12.89 f/n. It is their grouse that the applicant had not applied for withdrawal well in advance to enable consideration of his request and a decision thereon.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. The short question to be decided is whether, after securing permission to retire, the applicant is entitled to withdraw the notice. There is provision in the rules for withdrawal of the notice during the notice period but it requires the specific approval of the competent authority. In this case, the applicant has waited till almost the fag end of the notice period and then issued a letter withdrawing and expects^{ed} the respondents to act fast and permit him to withdraw. The action of the

To

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Union of India, Dept. of Posts, New Delhi.
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3. The Postmaster-General, Vijayawada.
4. The Director of Postal Services,
O/o Postmaster-General, Vijayawada.
5. The Superintendent of Post Offices, Gudivada.
6. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
7. One copy to Mr.N.Bhaskar Rao, Addl. CGSC. CAT.Hyd.
8. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
9. One spare copy.

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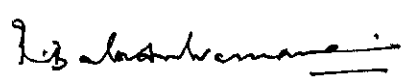
applicant is to be condemned. But then, the legal position is in his favour. In several judgments it had been held that an employee can withdraw his resignation any time before he is actually relieved of his duties even if the resignation has been accepted by the competent authority [ATR 1989 (2) CAT 682]. The same philosophy would apply to this case as well. It was following this that the applicant in O.A.No.8/88 was accorded relief by this Bench. Again, in a very recent judgment delivered on 17.9.91 in O.A.No.713/90 we had, citing a decision of the Hon'ble Supreme Court, held that an employee is at liberty to withdraw the notice even on the last day of the notice period. Following these decisions, we hold that the applicant is entitled to withdraw his notice before he was actually relieved on 1.12.89. We, therefore, quash the order of the respondents dated 28.12.89 and direct the respondents to allow the applicant to continue in service.

5. It is, however, seen from a letter dated 20.12.89 of the respondents (A.6) that the applicant had enacted a similar drama in 1987. The conduct of the applicant cannot escape notice and the respondents are at liberty to take due notice of this.

6. The application is disposed of thus with no order as to costs.



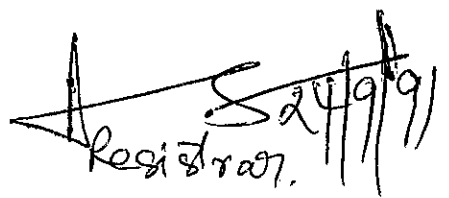
(J.Narasimha Murthy)
Member(Judl).



(R.Balasubramanian)
Member(Admn).

9.2

Dated 20th September 91


Registrar.

20/9/91