

(44)

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1434 of 1994.

Date of Order- 12.9.1997.

Between :

Ch. Srinivasa Rao

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Applicant

And

1. The Inspector General of Police,
Central Reserve Police Force,
Road No.12, Banjara Hills,
Hyderabad-34.
2. The Commandant,
1st Bn. Central Reserve Police
Force, Channi Himat, Jammu (J&K).
3. The Enquiry Officer-Asst. Commandant,
A/I Bn. Central Reserve Police Force,
Doda- 182 202 (J&K). Respondents

Counsel for the Applicant - Mr. J.V. Prasad

Counsel for the Respondents - Mr. V.Bhimanna, Addl.CGSC.

Coram :

The Hon'ble Mr. R. Rangarajan, Member(Admn.)

The Hon'ble Mr.B.S.Jai Parameshwar, Member(Judl.)

O R D E R (ORAL)

(As per Hon'ble Mr.B.S.Jai Parameshwar, Member (Judicial))

1. None for the applicant. The applicant was also absent when this O.A. was taken up for hearing. Heard Mr. V.Bhimanna, learned counsel for the respondents.

Since this O.A. was filed in the year 1994, we propose to decide this O.A. on the basis of the materials available on record in accordance with Rule 15(1) of the C.A.T.(Procedure) Rules, 1987.

2. The applicant while working as a Pharmacist in the Base Hospital-II, C.R.P.F., Hyderabad was transferred to 1st Bn. C.R.P.F. Kishtwar (J & K) and was relieved from

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his duties effective from 15.5.93. The applicant ^{Kistawar (J and K).} failed to report for duty at ~~the fixed hour~~. He submitted an application for sanction of leave for 45 days. The said application was rejected and the applicant was directed to report for duty. However, on 18.11.93 the applicant submitted a letter of resignation ^{for} ~~of~~ the post and again on 16.12.93 he submitted another letter to consider his case for acceptance of his resignation. The authorities felt necessary to consider the reasons for his ^{unauthorised} absence before ^{accepting} ~~receiving~~ his resignation letter. Hence a charge memo. dated 25.7.94 (at page-14 of the O.A.) was served on him and the respondents appointed Sri D.K.Choudhary as the Enquiry Officer to enquire into the charges. The Enquiry Officer fixed the date of enquiry and by his letter dated 10.11.94 directed the applicant to appear before him.

The applicant then filed this O.A. for the following reliefs :-

To declare that the action of the respondents in initiating a Departmental enquiry vide proceedings of the 2nd respondent in Memorandum No. P.VIII-4/94-T-FC-TT dated 25.7.94 in the face of the resignation of the applicant is illegal, arbitrary, unjust, mala fide and violative of principles of natural justice and to direct the respondents not to proceed with the said enquiry and to further direct the respondents to accept the applicant's resignation with ~~effect from 10.11.1993.~~

3. On 28.11.94, this Tribunal passed an interim order staying further proceedings before the Enquiry Officer pursuant to the letter dated 10.11.94.

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4. The respondents have filed their counter stating that the enquiry has been initiated against the applicant under Rule 14 of the CCS(CCA) Rules, 1965; that they have not accepted the resignation offered by the applicant during the pendency of the enquiry; that ^{a certificate of} an undertaking is one of the requirements for accepting the resignation of the applicant from service; that the applicant was directed for reporting for duty and then the same would be considered for regularisation of his absence from service and that the acceptance of the resignation is kept pending till regularisation of the unauthorised absence of the applicant.

5. The respondents were justified in not accepting the resignation offered by the applicant on 10.11.93. The respondents were not bound to accept or not to accept the resignation. The respondents waited from 18.11.93 till 24.7.94 for appearance of the applicant and submitting ^{his} explanation for his unauthorised absence, but the applicant remained absent. Therefore, the respondents were not bound to initiate disciplinary proceedings against the applicant for his unauthorised absence.

6. The applicant cannot compel the respondents to accept his resignation when disciplinary proceedings are pending against him. Hence we find no merits in the O.A. and the interim order dated 28.11.94 is required to be vacated.


7. Hence, we pass the following order :-

the employee of the respondents' organisation, the charge-sheet ^{d. 25.7.1994} already issued has to be processed and a final decision taken expeditiously ;

(ii)

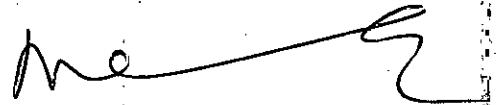
The interim order dated 28.11.94 ^{stands} ~~is~~ vacated.

The O.A. is accordingly ordered. No costs.



(B.S. Jai Parameshwar)
Member (Judicial)

12.9.97



(R. Rangarajan)
Member (Administrative)

Dated the 12th. September, 1997.
Dictated in the open Court.

Authd
18.9.97
D.R.(S)

Dj.

29/9/97
TYPED BY
Compared By

Checked by
Approved By

In the Central Administrative Tribunal
Hyderabad

The Hon'ble Shri R. Rangarajan: M(A)

And

The Hon'ble Shri B.S. Jai Paramashwar:
M(J)

Dated: 12/8/97

ORDER/JUDGMENT

M.A/R.A/C.P.No.

in
D.A.NO. 1434/89

ADMITTED AND INTERIM DIRECTIONS ISSUED
~~DISPOSED OF WITH DIRECTION~~
~~DISMISSED~~
~~ALLOWED~~
~~DISMISSED AS WITHDRAWN~~
~~DISMISSED FOR DEFAULT~~
~~ORDERED/REJECTED~~
NO ORDER AS TO COSTS.

YLKR

II COURT

