

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.1682 OF 1997.

DATE OF ORDER:29-9-1998.

Between:

G.Sudhakar.

.. Applicant

a n d

1. The General Manager, Ordnance Factory,
Project, Yeddumylaram, Medak District.
2. The Secretary to the Ordnance Factory
Board, 10-A, Shaheed Kshudiram Pose Road,
Calcutta-700 001.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.K.Venkateshwara Rao

COUNSEL FOR THE RESPONDENTS:: Mr.V.Rajeshwara Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.K.Venkateshwara Rao, the learned Counsel
for the Applicant and Mr.V.Rajeshwara Rao, the learned
Standing Counsel for the Respondents.

2. The applicant in this OA was appointed as a
Machinist (Semi-skilled) on 15-7-1988. He was subsequently
promoted to Machinist (Skilled) grade with effect from
30-11-1990.

3. It is stated by the Respondents that, he ~~was~~
remained absent from duty from 1993 onwards and was
sending leave applications from time to time. It is
also stated by the respondents that, when Disciplinary
proceedings ~~was~~ ^{were} contemplated for unauthorised absence
from duty, he tendered ^{his} resignation from service on
13-4-1995. His resignation was accepted by the Competent

Authority on 28-11-1995 and was notified by the Factory Order Part-II No.3576 dated:15-12-1995. The applicant has filed a representation dated:22-1-1996(Annexure.A-II to the OA) for considering his request for withdrawal of his resignation and reinstating him back to ~~an~~ duty. That was disposed of by the reply No.07/021/LB, dated: 20-2-1996 (Annexure.A-III). Later he submitted another representation addressed to the Minister for Defence, dated:2-6-1997(Annexure.A-IV). That was also rejected by Order No.07/001/LB, dated:6-11-1997(Annexure.V to the OA).

4. This OA is filed for setting aside the Order No.07/001/LB, dated:6-11-1997 by holding the same as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution and for a consequential direction to enable him to withdraw his resignation under Rule 26 of CCS(Pension)Rules,1972 with all consequential benefits.

5. A reply has been filed in this OA. The respondents in their reply had considered his case in terms of Rule 26 of ^{the} CCS(Pension)Rules,1972 and held that, three conditions ~~as~~ laid down in Sub Rule(4) of Rule 26 are not applicable to the applicant herein. No public interest will be served ~~for~~ ^{by} reinstating him back ^{into Service}, considering his request for withdrawal of his resignation. It is also stated that there is no satisfactory ^{ve- Change in Circumstances,} explanation which prevailed at the time of tendering his resignation from service and the material change which compelled him to withdraw the resignation. They dismissed the third condition relating to maximum time limit of 90 days between the date of acceptance of his resignation and the date of

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resuming duty treating it as irrelevant consideration.

6. The applicant had filed a Rejoinder. Though he submits that reinstating him/allowing to withdraw his resignation will be ^{by} public interest, he has not quoted clearly how public will be ^{benefited} effected by such an Order. However, ^{from} ~~in~~ the Rejoinder, it appears that the applicant is undergoing severe financial problems and also he confesses that his unauthorised absence earlier will not be repeated in future. Hence, on humanitarian grounds also he requests for reinstating him into service.

7. From the above, it appears that the applicant in accordance with the Rules may not get the benefit of being reinstated after allowing him to withdraw his resignation. However, it appears he ~~had~~ made out a case for considering his **reinstatement** on humanitarian consideration.

8. In view of the above, the applicant, if so advised, may submit a detailed representation for reinstating him as a fresh candidate either in the Skilled or Semi-Skilled post addressed to Respondent No.2 quoting the reasons for his request. If such a request is made by the applicant, we are of the opinion that the representation may be considered sympathetically ^{by the respondent No 2.} from humanitarian angle as:-

- i) The applicant is put ^{to} ~~in~~ a financially difficult situation;
- ii) The applicant had already worked as a Skilled Machinist, which experience may be of use to the respondents instead employing a fresh candidate from open market;

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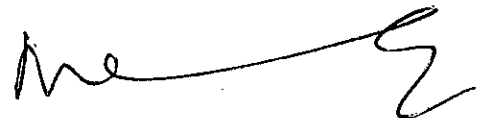
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iii). In case it is not possible to take him in ~~the~~ Skilled or Semi-Skilled posts, the respondents are at liberty to consider him even in any lower category if the applicant requests for the same. From the reply it is seen that the respondents have also not ~~cast~~ ^{expressed} any ~~aspirations~~ of misconduct etc., against the applicant, except ^{his} unauthorised absence.

9. The DA is disposed of as above. No costs.


(B.S. JAI PARAMESHWAR)

29.9.98
MEMBER (JUDL)



(R. RANGARAJAN)
MEMBER (ADMN)


D.R. Suresh

Dated: this the 29th day of September, 1998

Dictated to steno in the Open Court

DSN

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OA.1682/97

Copy to:-

1. The General Manager, Ordnance Factory, Project, Yeddumglaram, Medak District.
2. The Secretary to the Ordnance Factory Board, 10-A, Shaheed Kshudiram Posa Road, Calcutta.
3. One copy to Mr. K.Venkateswara Rao, Advocate, CAT., Hyd.
4. One copy to Mr. V.Rajeshwara Rao, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

srr

22/10/98

(6)

II COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI S.S. JAI PARAMESHWAR :
M(J)

DATED: 29/9/98

ORDER/JUDGMENT

M.A./R.A/C.P.NO.

in
C.A.NO. 1682/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 9 OCT 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH