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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.275 of 1997

Date of decision: This the 6th day of January 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Bhogeswar Hazarika,
Resident of Bordoloi Nagar,
P.O. & District - Tinsukia.Applicant
By Advocates Mr B.K. Sharma and Mr A.K. Roy.

-versus-

1. The Union of India, represented by the Secretary, Department of Telecommunication, Government of India, New Delhi.
2. The Chief General Manager (Telegraph), Assam Circle, Guwahati.
3. The Telephone Divisional Engineer, Dibrugarh.
4. The Telecom District Manager, Dibrugarh.Respondents
By Advocate Mr S. Ali, Sr. C.G.S.C.

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O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant challenging the Annexure G order dated 21.8.1997 issued by the Divisional Engineer (P&A), Office of the Telecom District Manager, Dibrugarh, by which Annexure F order dated 13.8.1997 permitting withdrawal of the resignation was cancelled and also Annexure H order dated 12.9.1997 issued by the General Manager, Telecom, Assam Circle, Guwahati.

2. Facts for the purpose of disposal of this case are:

The applicant, at the material time was working as Telephone Operator in the Department of Telecommunication. For certain reasons he had to submit his resignation on



4.8.1986. The resignation was not accepted by the authority and there was no communication between the authority and the applicant. As a result, the applicant remained in service for more than eight years. Situated thus, the applicant submitted Annexure A representation dated 12.7.1994 by which he wanted to withdraw his resignation letter. When this was not done the applicant approached this Tribunal by filing Original Application No.91 of 1992. Before approaching this Tribunal the applicant also filed Annexure B representation dated 28.6.1995 and this Tribunal directed the respondents to dispose of the said representation. It was further directed that while disposing of the representation the authority should follow the decisions of the Apex Court and also of the Gauhati High Court. The Tribunal also directed the applicant to file a fresh representation giving details of his case within three weeks from the date of the said order and if such representation was filed by the applicant within the time prescribed, the representation was also directed to be taken into consideration by the respondents while disposing of the matter regarding withdrawal of resignation.

3. Pursuant to the order dated 26.6.1997 passed by this Tribunal in the aforesaid original application, the applicant filed Annexure E representation dated 8.7.1997 giving details of his case. The applicant also cited decisions of the Apex Court in (i) Moti Ram -vs- Param Dev, reported in AIR (1993) SC 1662, (ii) Central Inland Water Transport Corporation Ltd. -vs- Brojo Nath Ganguly, reported in AIR (1986) SC 1571 and also to a decision reported in 1988 SLJ (1) 509.

3. Considering all these the Annexure F letter was issued by the Divisional Engineer (P&A) on 13.8.1997. From this letter it appears that the learned Sr. C.G.S.C. gave his written opinion regarding acceptance of withdrawal of resignation.....



resignation.....

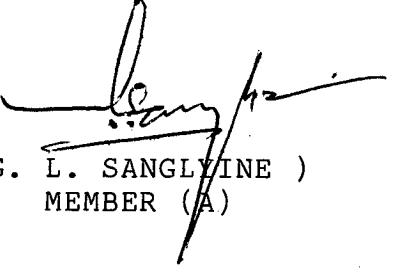
resignation and thereafter Annexure F order dated 13.8.1997 was issued permitting withdrawal of resignation on certain conditions mentioned therein. Thereafter, the applicant was allowed to join duties and the applicant, accordingly joined duties and worked for more than twelve days. On 21.8.1997 the Divisional Engineer (P&A) issued the Annexure G letter cancelling the acceptance of the withdrawal of resignation as it was done through inadvertence. We do not understand how and why Annexure F letter dated 13.8.1997 could be issued through inadvertence. The said Annexure F letter shows that the withdrawal of resignation was accepted on the grounds mentioned in therein. The impugned Annexure G order dated 21.8.1997 does not give any reason as to how Annexure F letter dated 13.8.1997 could be passed inadvertently. Besides, the authority having accepted the withdrawal of resignation and having allowed the applicant to work for more than twelve days, Annexure G order dated 21.8.1997 and Annexure H order dated 12.9.1997 were passed without giving any opportunity of hearing to the applicant which was in complete violation of the principles of natural justice or for that matter Article 311(2) of the Constitution. In this connection we have heard Mr B.K. Sharma, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C. Mr Sharma submits that this was done without affording reasonable opportunity of hearing to the applicant in utter violation of the principles of natural justice. Mr Ali also does not dispute the same.

3. In view of the above we are of the opinion that the Annexures G order dated 21.8.1997 and Annexure H order dated 12.9.1997 cannot sustain in law. Accordingly we set aside both the orders. The applicant shall be deemed to be



in service and he shall be entitled to get all the benefits as if he was in service all through. However, if the respondents find that the acceptance of the withdrawal of resignation was not in accordance with law they may take up the matter afresh and pass necessary orders in accordance with law after giving opportunity of hearing to the applicant. If the applicant is still aggrieved by the decision of the authority he may approach the appropriate forum, if so advised.

4. The application is accordingly disposed of. However, considering the facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

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