

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET
ORDERS OF THE TRIBUNAL

13.8.2012

OA No.22/2012

Mr. Punit Singhvi, counsel for the applicant
Mr. Neeraj Batra, proxy counsel for
Mr. Gaurav Jain, counsel for the respondent Nos. 2, 5 and 6

It is a D.B. matter. D.B. not formed today.

Put up the matter on 21.8.2012.

IR to continue till the next date.

K.S. Rathore
(JUSTICE K.S. RATHORE)

Judl. Member

R/

21-8-2012

Mr. Punit Singhvi - Counsel for applicant
Mr. Gaurav Jain - Counsel for resp no. 2, 5 & 6
None present for other respondents

Heard the learned counsel for the parties -

For the reasons elicited separately -
the OA stands disposed of.

Anil Kumar
(ANIL KUMAR)
Admn. Member

K.S. Rathore
(JUSTICE K.S. RATHORE)
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 21st day of August 2012

ORIGINAL APPLICATION No. 22/2012

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Hari Shankar Khatik
s/o Shri Bhgwati Lal
r/o 2/13, Nagar Nigam Colony,
Amer Road, Jaipur,
Presently working as Stenographer Grade-III
In the office of Regional Director,
National Savings Institute (GOI),
Vitta Bhawan,
C-Block, 4th Floor, Jyoti Nagar, Jaipur

... Applicant

(By Advocate: Shri Punit Singhvi)

Versus

1. The Union of India through Secretary to the Government of India, Ministry of Finance, Department of Economic Affairs, Govt. of India, New Delhi.
2. The Secretary, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi.
3. The Director, National Savings Institute, 4th Floor, CGO Complex, Seminary Hills, Nagpur.
4. The Regional Director, National Savings Institute, Vitta Bhawan, C-Block, 4th Floor, Jyoti Nagar, Jaipur
5. The Chief Commissioner of Income Tax (CCA) Central Revenue Building, Bhagwan Das Road, Jaipur

6. The Commissioner of Income Tax (Computer Operation)
Central Revenue Building, Statue Circle, Jaipur

... Respondents

(By Advocate : Shri Gaurav Jain for resp. No.2,5 &6)

ORDER (ORAL)

The applicant applied for the post of Stenographer Grade-II and his application was forwarded by respondent No.4, the Regional Director, National Savings Institute, Jaipur (appointing authority) and thereafter the applicant appeared for interview/test on 5.7.2011 with prior permission of the appointing authority. Respondent No.4 also sent the required ACRs of the applicant to the Chief Income Tax Commissioner and thereafter the applicant was selected and received offer of appointment vide order dated 21.7.2011. After receipt of offer of appointment, the applicant made request to respondent No.4 to relieve him. The applicant also submitted technical resignation to respondent No.4 who sent the same to respondent No.3, the Director, National Savings Institute vide its letter dated 26.7.2011. In the meantime, the applicant also submitted application for extension of joining time.

2. It is also not out of place to mention here that the learned counsel appearing on behalf of respondent Nos. 2, 5 and 6 Shri Gaurav Jain stated at Bar that still they are ready to allow the applicant to join the post of Stenographer Grade-II in the Income Tax Department in view of the order passed by this Tribunal in OA No.406/2011 filed by the applicant which was decided vide order



dated 1.9.2011 whereby this Tribunal directed the respondents not to cancel the selection of the applicant on the post of Stenographer Grade-II till the disposal of the appeal and representation of the applicant. The applicant also filed OA No.445/2011 and the same was decided vide order dated 29.9.2011 directing the respondents to consider representation/appeal of the applicant as per the direction earlier given in OA No.406/2011 vide order dated 1.9.2011. It was further directed that till disposal of the appeal dated 12.8.2011 and representation dated 17.8.2011, the selection of the applicant on the post of Stenographer Grade-II may not be cancelled.

3. In pursuance of the order passed by this Tribunal, joining time of the applicant was extended vide letter dated 21.10.2011. Learned counsel Shri Gaurav Jain appearing for the Income Tax Department submits that they are ready to allow the applicant to join his duty as Stenographer Grade-II whereas the learned counsel for respondent Nos. 1, 3 and 4 in their reply has given reasons why request of the applicant to relieve him to join the duty in the Income Tax Department as Stenographer Gr.II was rejected vide order dated 8.8.2011. The main reason assigned for not relieving the applicant is shortage of manpower. In their reply, they have also stated that the technical resignation of the applicant and request of relieving him was rejected due to acute shortage of manpower in NSI.



4. Having heard the rival submissions of the respective parties and having considered the prayer of the applicant in this OA, it is not disputed that the applicant applied for the post of Stenographer Gr-II through proper channel and with due permission of the appointing authority and the appointing authority has forwarded the application of the applicant and sent the required ACRs and ultimately the Income Tax Department selected the applicant and issued offer of appointment vide order dated 21.7.2011. Thereafter time and again the applicant requested for extension of joining time and also made request to the appointing authority to accept the technical resignation and relieve him to join the post of Stenographer Grade-II in the Income Tax Department. Not only this, the applicant constrain to file OA No.406/2011 and OA No.445/2011 and the same were decided vide order dated 1.9.2011 and 29.9.2011 respectively. This Tribunal also directed the Income Tax Department not to cancel the candidature of the applicant and pursuant to direction issued by this Tribunal, as stated hereinabove, the counsel appearing for the Income Tax Department submitted that they are ready to allow the applicant to join on the post of Stenographer Grade-II.

5. We are surprised to note from the reply filed by respondent Nos. 1,3 and 4 that the Regional Director, National Savings Institute has turned down request of the applicant only on the ground that they are having acute shortage of manpower. If it is so, the National Savings Institute is always at liberty to take appropriate steps to fill



up the vacancies to meet out the shortage of manpower in accordance with provisions of law but they cannot refuse the applicant for accepting technical resignation and relieving to join the post for which he applied with proper permission. In the above circumstances, it is always for the employee concerned whether he wants to serve the National Savings Institute or not and refusal to accept the technical resignation and to relieve him, at this stage, would amount to denial of availing opportunity of employment.

6. In view of above discussions, we deem it proper to direct the respondent Nos. 1,3 and 4 to accept the technical resignation of the applicant immediately and relieve the applicant forthwith, but in any case not beyond the period of 15 days from the date of receipt of a copy of this order. As the respondent Nos. 2,5 and 6 are ready to allow the applicant to join the post of Stenographer Grade-II in their department, thus in view of the submissions made on behalf of the learned counsel appearing for respondent Nos. 2, 5 and 6, no fresh direction is required to be issued to these respondents.

7. The OA stands allowed in the aforesaid terms with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K.S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

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