

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

Original Application No. 219 of 2017

This the 22nd day of February, 2018

C O R A M :

**HON'BLE DR K B SURESH, JUDICIAL MEMBER
HON'BLE SHRI K N SHRIVASTAVA, ADMINISTRATIVE MEMBER**

Shri Naranbhai Govabhai Rabari,
N.G.Rabari, Age-54 Years,
S/o Shri Govaabhai Rabari,
Ex.. Postal Asstt. I.E. Bapunagar P.O., Ahmedabad
Now at 1282, Mahavirnagar, Nr. Ratannagar Society,
Thakkarbapanagar, Ahmedabad – 382350. ... Applicant

By Advocate Shri M B Navani

V/s

- 1 Union of India through Secretary,
Director General,
Department of Post, Dak Bhavan, Parliament Street,
New Delhi – 110 001.
- 2 The Chief Postmaster General,
Gujarat Circle, Ahmedabad – 380 001
- 3 The Sr. Supdt. Of Post offices,
Ahmedabad City Division,
Ahmedabad – 380 009 ... Respondents

By Advocate Ms R R Patel

O R D E R (ORAL)

Per Hon'ble Dr K B Suresh, Member(J)

- 1 Heard. The applicant, wounded by the fact that his father was 86 year old and was totally bedridden and nobody else was there to take care of him, as the wife of the applicant being admitted to Mental Asylum had given a letter of resignation on 1.11.2011.

2 Now he would say that after office hours on 1.11.2011, he was informed by the office authorities that he need not come to the office henceforth. Apparently the applicant on the very next day (on 2.11.2011) approached the Postmaster and orally requested to withdraw the resignation for which no evidence is available and that he may be taken back in service. But the concerned postmaster informed him that he has forwarded the resignation letter to the Superintendent of Post Office and he may approach the Superintendent of Post Office.

3 Apparently what he has today is a letter which is now impugned No.B1/1/Resignation/NGR/2011-12 dated 2.4.2012. This letter indicates that by office memo dated 2.11.2011 the resignation was accepted and he was relieved. Apparently **it is not physically possible because only on acceptance of resignation he can be relieved.** Therefore if the relief has taken place before that, it cannot be sustained.

4 Apparently on 9.11.2012, the applicant has made a formal application to withdraw his resignation. After calculation we find that the same is within the period of 90 days limit. We have gone through the original record and we find that an order of acceptance dated 2.12.2011 was marked to him but the same was clubbed with PF and therefore may not have been served on him. Even though the departmental representative looked for an acknowledgement of the applicant, the same was not available. Therefore, the conclusion is that this order was never served on the applicant. Therefore, we feel that in the confusion of clubbing the applicant and PF, it might have been issued to the PF and not to the applicant.

5 In any case within 90 days the applicant had a right to withdraw the resignation and the respondents could not have unilaterally accepted the resignation

even though the applicant had enough reason for not wanting to be burdened with employment as his wife was admitted to Mental Asylum and his father was bedridden. Therefore, the constitutional process also incites that the respondents behave in a humanitarian manner and have no power or right with them to unilaterally accept the resignation within the period of 90 days.

5 The applicant has also filed MA 209/2017 for condonation of delay. Considering the facts and circumstances of the case, the MA-209/2017 for Condonation of delay is allowed.

6 Therefore the OA is allowed. The applicant will be allowed to rejoin the duty within two weeks but will not be paid any backwages. He may appear before the same Post Office to be reinstated. No costs.

(K N Shrivastava)
Member(A)

(Dr. K B Suresh)
Member(J)

abp