

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 2466/2014

New Delhi, this the 9th day of May, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE DR. BRAHM AVTAR AGRAWAL, MEMBER (J)

Smt. Bhavya Kiran Arya,
Ex-Postal Assistant,
Aged 31 years,
W/o Shri Pushpender Singh Chauhan,
R/o House No.F-2, Electric Sub Division,
NDMC Flats Malcha Marg,
Market Chankyapuri,
New Delhi.

.. Applicant

(By Advocate: Shri Daleep Singh)

Versus

1. Union of India,
Ministry of Communication &
Information Technology,
Through its Secretary,
Department of Posts,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi.

2. The Director,
Department of Posts,
Office of the Director GPO,
New Delhi-110001.

.. Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

ORDER (Oral)**By Hon'ble Mr. P.K. Basu**

The applicant had joined the service with the respondents as a temporary Postal Assistant vide appointment letter dated 01.03.2014. The applicant tendered her resignation on 28.04.2014, which was accepted on 12.05.2014. The O.A. has been filed with the following prayer(s):

- “(i) direct the respondents to release the withhold amount of 3-days salary and refund the illegally recovered amount for resignation from the purely temporary post of postal assistant.
- (ii) pass such other or further order(s) as may deem fit and proper for ends of justice.”

2. It is clarified by the applicant's counsel that three days' salary has been paid to the applicant and now prayer of the applicant is only restricted to refund of one month's salary which has been recovered from her at the time of resignation.

3. The ground on which the prayer is made is that as per provision of O.M. dated 25.05.1966 of Ministry of Home Affairs, in case of a simple letter of resignation, Rule 5(1) of CCS (TS) Rules, 1965 does not apply. The relevant rule is quoted below:

“(B) (1) **Distinction between a simple letter of resignation and notice under Rule 5** – When a temporary Government servant submits a letter of resignation, a distinction should be drawn between a letter of resignation purporting to be a notice of termination of service and one which is not. A notice of termination of service given by a temporary Government servant under Rule 5 (1) of CCS (TS) Rules, 1965, is something different from a mere letter of resignation submitted by him without any reference, direct or indirect to the said rule. While

the former is an exercise of the right conferred by statutory rules enabling a temporary Government servant to cease performance of his duties automatically on the expiry of the prescribed period of notice, the latter requires acceptance by the Competent Authority in order to become effective. Therefore, if a temporary Government servant submits a letter of resignation in which he does not refer to Rule 5 (1) of these rules or does not even say that it be treated as a notice of termination of service, the provisions of Rule 5(1) *ibid* will not be attracted. In such a case he can relinquish his post only when the resignation is accepted and he is relieved of his duties. It will, therefore, be possible in such circumstances to retain the temporary officer even beyond one month if it takes time to make alternative arrangements. This will not be repugnant to the provisions of these rules in any way because when a temporary Government servant submits a letter of resignation without invoking the provisions of the said rules, they will not come into the picture, notwithstanding the fact that, being a temporary Government servant, he is governed by these rules.”

It is stated that in view of this rule, one month’s salary could not have been recovered from the applicant as she had rendered a simple letter of resignation.

4. Per contra, the learned counsel for the respondents states that at the time of appointment, the applicant had signed a declaration (Annexure RR-1), which reads as follows:

“DECLARATION

I understand that the employment under Govt. is temporary and that my service may be terminated by one month’s notice either by me to Govt. or by Govt. to me. I agree however that I shall not resign or quit my employment except with the previous consent in writing of the Head of the Department or office in which I am at the time employed, and that in default without prejudice or any action that a Govt. may choose to take against me, I shall forfeit to the Govt. such sum act exceeding my pay for one month as the Head of the Deptt. or office may fix. ”

5. It is stated that this makes it absolutely clear that as per this declaration, the applicant has to forfeit to the Govt. one month's salary. It is in compliance of this declaration that the applicant had been asked to deposit one month's salary.

6. The learned counsel for the applicant would argue that though the applicant had tendered her resignation on 28.04.2015 with immediate effect, the department had accepted her resignation on 12.05.2015 and due to this reason, the question of forfeiture of one month's salary does not arise. Since the department themselves had delayed, they cannot invoke this provision of declaration thereafter.

7. Heard the learned counsel and perused the documents placed before us.

8. At the time of appointment as temporary Postal Assistant, the applicant accepted the offer as contained in appointment letter dated 01.03.2014 and, as per requirement, signed the declaration referred to above. The declaration clearly provides that in case she quits before, one month's salary would be forfeited. Therefore, the applicant is bound by this declaration as she accepted the terms and conditions of the appointment. The O.M. dated 25.05.1966 does not come to her rescue at all. The O.M. only states that in case of a simple letter of resignation, Rule 5(1) of CCS (TS) Rules, 1965 will not be attracted and in such a case, he can relinquish his post

only when the resignation is accepted and he is relieved of his duties. It will, therefore, be possible in such circumstances to retain the officer even beyond one month if it takes time to make alternative arrangements. In fact, it is admitted that for the additional period from 28.04.2014 to 12.05.2014, the applicant has been paid the salary.

9. In view of the clear provision of the declaration signed by the applicant, we find no merit in this O.A. and it is, therefore, dismissed. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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