

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/01080/2016

Wednesday, this the 19th day of September, 2018.

CORAM:

HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

George Varghese,
Edappakath House, Vezhakkattukara,
Muriyad P.O, Irinjalakuda,
Thrissur – 680 683. - Applicant

[By Advocate Mr. P.N. Santhosh]

Versus

1. Union of India represented by the Secretary to Government, Department of Posts, Government of India, New Delhi – 110 001.
2. The Chief Post Master General, Kerala Circle, Office of the Post Master General, Thiruvananthapuram – 695 101.
3. The Post Master General, Central Region-Kerala Circle, Kochi – 682 020.
4. The Superintendent of Post Offices, Irinjalakuda Division, Irinjalakuda – 680 121. - Respondents

[By Advocate : Mr. Anil Ravi, ACGSC]

The application having been heard on 12.09.2018, the Tribunal on 19.09.2018 delivered the following:

O R D E R

Per: E.K. Bharat Bhushan, Administrative Member

O.A. No. 1080 of 2016 is filed by Shri George Varghese, ex-service man, who had joined the Postal Department on re-employment. He is aggrieved by the fact that the respondents are not permitting him to

withdraw his resignation and reinstate him in service. The reliefs sought in the O.A are as follows:-

- "i. Call for the records leading to Annexure A-14 and set aside the same.*
- ii. Declare that the applicant is entitled to get re-appointed based on his applications for cancellation of his resignation as evident from Annexures A4, A-5 and A-6 and subsequent representations.*
- iii. Issue a direction to respondents to give a posting to the applicant as Postal Assistant in any of the office under the 4th respondent and to give all consequential service benefits as if he was reinstated within 90 days from the date of effective resignation. And*
- iv. Grant such other relief, as this Hon'ble Tribunal deems fit and proper in the nature and circumstances of the case including the cost of this proceeding."*

2. The applicant had put in 17 years of service in the Armed Forces and on retirement had been employed in the Postal Department on re-employment basis and was initially posted at Kattappana Head Office as Leave Reserve Postal Assistant (LRPA). After one year, that is in January, 2008, he was posted to Irinjalakuda Division. In the next two years, the applicant claims to have been transferred from Irinjalakuda to several Post Offices; he claims that he was posted to 20 Post Offices within a period of two years. In 2010, he was promoted as Postal Assistant and was posted to Thazhekkad Sorting Office vide order dated 25.03.2010. However, he was not allowed to continue there and was again posted to a Hub Centre set up at Irinjalakuda for distribution of text books. Frustrated by these frequent transfers and the fact that he was not allowed to settle down in one place, he put in his resignation letter dated 31.05.2010 expressing his desire to resign from service under the respondents. The copy of the resignation letter is at Annexure A-1.

The 4th respondent, by way of Annexure A-2 document replied to him stating that his application for resignation can be accepted only after the completion of the assignment given to him. After the assignment at the Hub Centre was over, the resignation was formally accepted by the 4th respondent with effect from 21.09.2010, copy of the communication being at Annexure A-3.

3. After this, the applicant realized very quickly that he was unable to carry on without a job. According to him, he started making frequent representations to the respondents who did not reply to a single one of them. At Annexures A-4, A-5, A-6 A-7, A-8 and A-9 are copies of representations he purportedly made to 4th respondent seeking withdrawal of his resignation. Finally, on 23.12.2015 he submitted a comprehensive representation before the 2nd respondent with a copy to 3rd respondent. A copy of this may be seen at Annexure A-10. He was given a reply by the 2nd respondent that a decision will be taken in the matter and the same will be communicated (Annexure A-11). Finally, he was served with the impugned order at Annexure A-14 which reads as follows:-

*“DEPARTMENT OF POSTS, INDIA
Office of the Postmaster General, Central Region, Kochi – 682 020.*

To

*Shri. George Varghese,
Edappat House,
Vezhakkattukara,
Vallakunnu,
Muriyad P.O – 680 683.*

No. ST/105-21/2010 dated at Kochi – 682 020 the 12.07.2016

Sub: Reinstatement into service – C/o. Sri. George Varghese,

*Ref: Chief Postmaster General, Kerala Circle, Thiruvananthapuram
letter No. ST/9-2/CR/2015 dated 01.01.2016.*

Sir,

*Please refer to the letter cited. As per rules the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is **not more than ninety days.***

As such I am directed to inform you that your request cannot be acceded to at present, since you have resigned from the Department on 21.09.2010 F.N.

*Sd/-
P. Damodaran
Assistant Director (Staff)"*

4. The applicant submits that under Rule 26(4) of CCS (Pension) Rules, the appointing authority can permit a person to withdraw his resignation in public interest if the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days. In this case, his resignation had been accepted with effect from 21.09.2010 and the applicant submits that he made his first representation to get his resignation withdrawn on 13.10.2010, which is well within the time limit prescribed in the quoted rules. He goes on to submit that the official respondents have failed to consider the mitigating circumstances that he has narrated in his various representations. Further, he submits that there are instances in the Department where people who had long ago were reinstated. One such instance of one Kiran K.D former P.A, Valappad S.O is mentioned in the O.A stating that despite a passage of 5 years 3rd respondent had issued a communication allowing the said Shri Kiran

to withdraw his resignation despite the fact that he had been away from his duties without taking leave and because of disciplinary proceedings which were initiated against him.

5. By way of reply the respondents have filed a statement disputing the contentions made in the O.A. The primary objection brought out in the reply statement is that although the resignation of the applicant had been accepted with effect from 21.09.2010, he had chosen to be silent until seeking reinstatement by withdrawing the resignation only on 23.12.2015. All the representations that he claims having made, copies of which are available at Annexure A-4 to A-9 are figments of his imagination or are deliberately fabricated in order to get over the fact that there has been undue delay in filing the representation. Also the case of Shri Kiran which he has referred to was not in the manner it has been described. The said Kiran had requested to withdraw his resignation well within the time limit of 90 days and his case was considered on that ground and reinstatement allowed. It is also false to say that any disciplinary proceedings had been initiated against the said Kiran.

6. The reply statement placed reliance on the rule position as brought out in Sub Rule (4) to (6) of Rule 26 of the CCS (Pension) Rules 1972 which corresponds to Article 418(b) of the Civil Service Regulations. A copy of the Rule 26 of the CCS (Pension) Rules, 1972 is produced at Annexure R-2. Consolidated instructions regarding the procedure to be followed in respect of acceptance/withdrawal of

resignation is also brought out in O.M. No. 28034/25/87-Estt(A) dated 11.02.1988 issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training. The copy of the said O.M is at Annexure R-3. It is clear from Annexure R-2 and R-3 that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation should not be more than 90 days. In this particular date, the applicant submitted his representation for withdrawal of his resignation only vide Annexure A-10 dated 23.12.2015 after a lapse of five years. It is also significant to note that in the representation made by him on 23.12.2015 there is no reference at all to any of the representations that he claims having filed with alleged copies being supplied from Annexure A-4 to A-9. This goes on to prove that he had actually filed none of these and is trying to resurrect a stale claim by adding copies of some fabricated communications, which he had never sent.

7. Shri P.N. Santhosh, learned counsel for the applicant and Shri Anil Ravi, ACGSC for the respondents were heard.

8. The applicant, an ex-service man had joined the Postal Department on re-employment basis and left by submitting his resignation within two years of his entering service. The reason that he gave for wanting to leave the Department as seen in the resignation letter is “owing to causes related with personal, spiritual and domestic affairs”. He mentions in the O.A that he had been transferred 20 times in

a brief period of two years. This appears to be clearly false from the list of postings that he has endured as is seen in the reply statement. He again claims having submitted various representations within 90 days period as is required under the relevant statute. The respondents submitted that the first representation that he made for his reinstatement was made as late as on 23.12.2015 which is more than five years after his resignation had been accepted. This Tribunal is left with no alternative but to conclude that the various representations he claims to have filed are intended to get over the limitation prescribed under the statute.

9. Government service cannot be a revolving door for someone to come through and leave as and when they want. With this purpose in mind that rules have been framed to allow any representation to withdraw a resignation to be filed within 90 days. Clearly the applicant in this case has not kept to the time limit prescribed. His further contentions about 20 postings in two years as well as the instance he quoted to show that the 90 day rule had been violated in another man's case are all found to be false. Under the circumstances, this Tribunal is of the view that the O.A has no merit and liable to be dismissed. I proceed to do so. No order as to costs.

(Dated, 19th September, 2018.)

**(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

Applicant's Annexures

Annexure A1 - A true copy of the resignation letter dated 31.05.2010 submitted by the applicant to the 4th respondent.

Annexure A2 - A true copy of the communication dated 02.06.2010 issued by the 4th respondent to the applicant.

Annexure A3 - A true copy of the communication dated 21.09.2010 issued by the 4th respondent to the applicant.

Annexure A4 - A true copy of the representation dated 13.10.2010 submitted by the applicant before the 4th respondent.

Annexure A5 - A true copy of the representation dated 23.10.2010 submitted by the applicant before the 4th respondent.

Annexure A6 - A true copy of the representation dated 17.11.2010 submitted by the applicant before the 4th respondent.

Annexure A7 - A true copy of the representation dated 15.03.2011 submitted by the applicant before the 4th respondent.

Annexure A8 - A true copy of the representation dated 23.09.2011 submitted by the applicant before the 4th respondent.

Annexure A9 - A true copy of the representation dated 14.08.2012 submitted by the applicant before the 4th respondent.

Annexure A10 - A true copy of the representation dated 23.12.2015 submitted by the applicant before the 2nd respondent with copy to the 3rd respondent.

Annexure A11 - A true copy of the communication dated 01.01.2016 given from the office of the 2nd respondent to the applicant.

Annexure A12 - A true copy of the communication dated 22.02.2016 submitted by the applicant before the 3rd respondent.

Annexure A13 - A true copy of the reminder dated 09.05.2016 submitted by the applicant before the 3rd respondent.

Annexure A14 - A true copy of the communication dated 21.07.2016 issued from the office of the 3rd respondent to the applicant.

Annexures of Respondents

Annexure R1-A - True copy of representation dated 13.08.2010 submitted by the applicant.

Annexure R2-A - A true copy of extract of Rule 26 of the CCS (Pension) Rules, 1972.

Annexure R3-A - A true copy of O.M. No. 28034/25/87-Estt(A) dated 11.02.1988.
