

**Central Administrative Tribunal
Chandigarh Bench
(Circuit Bench at Jammu)**

**OA No.61/901/2018
(SWP No.2467/2009)**

Decided on : 20.09.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. P. Gopinath, Member (A)**

Ajesh Dubey S/o S.P. Dubey,
age 41 years, R/o 18-B,
Karan Nagar, Ext. Jammu.

... Applicant

(By Mr. D.S. Chauhan, Advocate.)

Versus

1. Union of India,
through Secretary Communication & IT,
Department of Posts, Dak Bhawan,
Sansad Marg,
New Delhi.
2. Director General,
Department of Posts Dak Bhawan,
Sansad Marg,
New Delhi.

... Respondents

(By Mr. Harshwardhan Gupta, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:

1. The applicant joined the service of the respondent Department in 1996 and on account of his performance and hard work, he rose to the level of Director of Postal Services in 2006. In 2006, he was transferred to Imphal. However, after he joined that station on 26.06.2006, he applied for leave and came back. Thereafter, he submitted a letter of resignation on 19.01.2006 stating that his resignation may be effective from 31.12.2006. The letter of resignation was accepted ultimately on 18.03.2009 and was effective from 30.12.2006.
2. The applicant filed SWP No. 2467/2009 in the J&K High Court with the prayer to direct the respondents to pay him back wages till 18.03.2009. The respondents filed counter affidavit opposing the prayer made in SWP stating that though he submitted resignation, applicant did not attend duties and that the applicant is not entitled to the reliefs claimed by him.
3. The High Court transferred the Writ Petition to the Tribunal and the it came to be numbered as OA No. 061/00901/2018.
4. The OA is filed with a prayer to quash the Notification dated 18.03.2009 accepting resignation of the applicant from

2006 and to direct the respondents to reinstate the applicant with all consequential benefits. Further prayer is to direct the respondents to pay back wages to the applicant till 18.03.2009 and retirement benefits amounting to Rs. 24 lakhs.

5. The applicant contends that once he served a letter of resignation to be effective from 30.12.2006, respondents were under obligation to act accordingly and pass order. Instead, the matter was kept pending for more than two years. He contends that he was subjected to mental agony and physical discomfort for all these years. It is also the case of the applicant that once his resignation is accepted vide order dated 30.12.2006, it cannot be effected ante date. He claims benefits as indicated above.

6. The respondents filed counter affidavit opposing the OA. It is stated that the resignation of the applicant was accepted duly following the prescribed procedure and the reliefs claimed by him are impermissible in law.

7. The applicant has also filed rejoinder.

8. We heard learned counsel for the applicant as well as learned counsel for the respondents and carefully gone through the record.

9. The prayer made in the OA is somewhat typical. In case the applicant felt aggrieved by the delay in the acceptance of the letter of resignation, he was supposed to move a court at the appropriate time. But, he did not feel it necessary. Added to that, he stopped attending to the duties and remained absent. Applicant did not even apply for leave, much less it was sanctioned. Therefore, his absence was totally unauthorized. Under these circumstances, respondents were absolutely in a dilemma whether to accept resignation of the applicant or take disciplinary action against him. It is in this process that the delay which is not enormous, has taken place and ultimately, the acceptance of resignation was notified on 18.03.2009.

10. One of the points urged is that the acceptance can only be prospective in nature and cannot be w.e.f. 30.12.2006. This would have been accepted if the applicant continued to discharge the duties till the acceptance of his resignation. Once, he had submitted his resignation and remained absent, thereafter, the respondents cannot be expected to treat the period as being in service and make his resignation effective from 18.03.2009. Therefore, we do not find any force in the prayer made by the applicant in the OA.

11. The applicant wants the period between the date of submission of resignation i.e. 19.12.2006 and date of acceptance of the same, to be treated as on duty and accordingly claim the relief of reinstatement and wages. Once it is not disputed that the applicant was not discharging his official duties, he cannot claim that relief. The occasion to reinstate an employee would arise, only if he is suspended or removed from service. None of these circumstances exist in this case.

12. We, however, direct that in case the terminal benefits of the applicant are not released, they be released within two months from the date of receipt of a certified copy of this order. The OA is accordingly dismissed with the above observations. There shall be no order as to costs.

(P. Gopinath)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ND/