

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1503/2019

Tuesday, this the 14th day of May 2019

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

Bijender Yadav, Scientist E,
Group A
Aged bout 38 years
s/o Sh. D S Yadav
r/o WZ-1028A/1/B Street No.13,
Sadh Nagar, Palam
New Delhi – 110 045

..Applicant
(Mr. M K Bhardwaj, Advocate)

Versus

1. Union of India through Secretary
Dept. of Defence R & D and
DG, DRDO
DRDO Bhawan
Rajaji Marg, New Delhi
2. Defence Research &
Development Organization
Through its Director
DRDO Bhawan
Rajaji Marg,
New Delhi

..Respondents
(Mr. Rohit Sehrawat, Advocate Rajeev Kumar, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was selected and appointed as Scientist 'E' in Defence Research & Development Organization (DRDO), on 09.08.2016. It appears that he was posted at an establishment in Gaya, State of Bihar. Shortly thereafter, the applicant went on

expressing his difficulties and problems, to work in that place. He also made a request for his transfer to any place nearer to Delhi. Ultimately, through a letter dated 10.08.2017, the applicant requested the respondents either to transfer him to a nearby place or to accept his resignation and relieve him from duties, w.e.f. 10.09.2017. The resignation was accepted by the competent authority on 01.11.2017 and the same was conveyed to the applicant on 07.11.2017. Thereafter the applicant made representation on 07.01.2019 with a request to take him back into service. The same was rejected through a letter dated 17.01.2019. Hence, this O.A.

2. The applicant contends that it was on account of serious distress and difficulty, that he addressed the letter dated 10.08.2017, making a request to transfer him to a nearby place and if it is not possible, to accept his resignation. He contends that shortly thereafter, he realized the mistake and approached various authorities with a request to permit him to take back the resignation. He further contends that long thereafter, the resignation was accepted and the same is contrary to the Rules framed by the respondents.

3. We heard Mr. M K Bhardwaj, learned counsel for applicant and Mr. Rohit Sehrawat for Mr. Rajeev Kumar, learned counsel for respondents, at the stage of admission.

4. It is rather unfortunate that a scientist, like the applicant, who was selected to a coveted post, has chosen to be indisciplined from the threshold of his career. Though he was appointed in August, 2016, he went on seeking extensions for joining and obviously because the place of posting was not to his liking, he reluctantly joined only on 10.04.2017. Even thereafter, he was not regular to his duties. He remained absent shortly thereafter. On 02.06.2017, he addressed a communication to the concerned authority as under:-

“I am not feeling well and due to that I am able to attend office. I will Join office as soon as possible based on my fitness.”

(true reproduction)

He did not care to verify whether he was choosing the correct word, namely, ‘able’ or ‘unable’. The respondents were struggling a lot to procure the presence of the applicant. They informed him through a letter dated 07.06.2017 that he was not having any leave to his credit and he may join the office immediately. The letter reads as under:-

“1. Reference your intimation letter regarding Sick leave dated 02 Jun 2017.

2. No leave is available against your credit. You should join back the office immediately with relevant medical documents (relevant medical illness certificate and fitness certificate). Since, no leave balance is available in your case; you need to apply for EOL on medical grounds. Your salary slip will be generated after your leave regularisation.

3. This has concurrence of Director SPIC.”

He was also informed that his appointment, at that point of time, was only *ad hoc* in nature and he cannot afford to be absent as he wishes.

5. The disinclination on the part of the applicant to work at Gaya, Bihar, is evident from the letter dated 10.08.2017, addressed by him. It reads:-

“1. Reference to your letter DOP/05/56069/115109 dated 30 Aug 2016, 17 Jan 2017 and 22 Mar 2017 regarding appointment to the Post of Scientist ‘E’ in DRDO.

2. The Extension of adhoc appointment upto 31st Dec 2017 was approved and intimated vide letter no.DOP/05/ 56069/115109 Dated 30 Jun 2017.

3. Sir due to my personal requirements (to take care of my old parents and my wife and new born daughter) my presence is required in Delhi. Earlier I manage things by visiting my home from Gaya on weekly or 15 days basis. Sometimes taking helps from relatives. But now it will not possible for me to visit every week due to that far location of site or asking people to support.

4. I request you kindly transfer me in Delhi or nearby Delhi state anywhere in Haryana, Chandigarh, Rajasthan, Uttaranchal if any site is there. If it is not possible in SPIC then kindly consider to give me a transfer in some another DRDO Lab. I need this transfer because I need initial 2 years to settle things on family side.

5. In case it is not possible as mentioned in point 4, in terms of Para 3 of reference letters (1) above and in pursuance of sub rule (1) of rule 5 of the Central Civil Services (Temporary Services) rules, 1965, I hereby give notice to the termination of appointment with effect from the date of expiry of a period of one month from the date of this letter.

6. Hence the undersign may be released of all duties w.e.f. 10th September 2017.”

6. Having expressed his disinclination to work at a place of posting, the applicant has ultimately stated that if it is not possible for the respondents to transfer him to any other place, the letter can be treated as a notice for termination of appointment. He has even indicated the date with effect from which it should take place, namely, 10.09.2017. The competent authority considered the request of the applicant and passed the following order dated 01.11.2017:

“1. Reference your letter No.SPIC/Admin/VTR-r/2017 dated 08 Sep 2017.

2. Competent authority has accepted notice given by Sh. Bijender Yadav, Sc ‘E’, SPIC, Delhi for termination of temporary service under Rule 5 of CCS (Temporary Service) Rules, 1965 with effect from 10 Sep 2017 (A/N).

3. A copy of DO Part II containing the casualty of officer’s S.O.S. may be forwarded to all concerned alongwith this HQ.”

7. The request of the applicant, including the one, as to the effective date, was accepted. Thereby, the relationship between him and the respondents, as the employer and employee, came to an end. This decision was communicated to the applicant through a letter dated 07.11.2017. The only request made by the applicant, which finds place in the record in the context of taking back the resignation, is the one dated 02.11.2017, which reads:-

“1. Reference to your letter DOP/05/56069/115109 dated 30 Aug 2016 regarding appointment to the post of scientist “E” in DRDO.

2. I have send a self-termination letter dated 10th Aug 2017 to DOP via SPIC HQ for termination of my service due to personal reasons.

3. Sir, I want to take back my self-termination request. So I request you kindly cancel my self-termination request letter and allow me to join DRDO again.”

8. Whatever be the facility created under the Rules for an employee to take back the resignation, once it is accepted by the competent authority, the question of withdrawing the same does not arise. It is a matter of record that the resignation of the applicant was accepted on 01.11.2017. The so-called attempt made by the applicant to resile was only through a letter dated 02.11.2017. Here again, we may mention that there is nothing on record to show that this letter was submitted by the applicant to the competent authority.

9. Things would have been different, had the applicant been in service and attending the office till his resignation was accepted and before he came to know about the acceptance, he withdrew the same. Having submitted the letter of resignation, the applicant started remaining absent from duty and obviously for that reason he made a request for ‘reinstatement’. A sensitive and highly Specialized Organization cannot afford to

have on its rolls, a reluctant, self serving, wavering and irregular scientist like the applicant.

10. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri) **(Justice L. Narasimha Reddy)**
Member (A) **Chairman**

May 14, 2019
/sunil/