

(2009) 10 DEL CK 0017

In the Delhi High Court

Case No : Writ Petition (C) No. 2660 of 1992

Ex. SI Satya Brat Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-10-2009

Acts Referred:

Citation : (2009) 10 DEL CK 0017

Hon'ble Judges : Suresh Kait, J; Pradeep Nandrajog, J

Bench : Division Bench

Advocate : R.K. Sharma, for the Appellant; Barkha Babbar, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—Petitioner states that being a patient of severe depression and being psychologically imbalanced, he was not in a position to understand what he was doing; in any case, an act by a person in the state of insanity cannot bind him. So stating, it is prayed by the petitioner that the action of the respondents in accepting his letter seeking to resign from service under the respondents be quashed and a direction be issued to reinstate the petitioner in service.

2. As per the averments made in the writ petition, the petitioner was detected as a patient of chronic" Alopecia .Hair from all parts of his body started falling. Being a young man, the petitioner went into a stage of depression and during his visit to the Chief Medical Officer of BSF, was advised to submit a resignation, for the reason the Chief Medical Officer found that the petitioner was a case of severe depression.

3. The petitioner alleges that the Chief Medical Officer got typed the letter of resignation. It was signed by the petitioner and forwarded to the concerned officer for acceptance.

4. The petitioner relies upon a letter dated 26.6.1990 addressed by the

Additional Deputy Director Medicine of BSF, Commandant 143 Battalion BSF which reads as under:

Reference your office letter No. 0221/Estt/143/90/6517-18 dated 25 May" 90.

No.880022134 SI Satyabrat Singh of your unit appeared before me as directed vide your above letter. I personally known this case for the last one year and he is suffering from ailments which will take very long time for treatment and result are not very certain. Being a case of Depressive Psychosis I feel he cannot be a useful SI for the Force.

Therefore, it is strongly recommended that his prayer for resignation may kindly be considered sympathetically. Otherwise also we have to hold a medical board and declare him unfit for further service which will involve a lengthy official procedure.

With regard.

5. Learned Counsel for the petitioner urges that the said letter shows that the Additional Deputy Director Medicine has categorically stated that in case resignation of the petitioner is not accepted, the petitioner would have to be declared medically unfit for serving under BSF. Counsel urges that the said letter shows the involvement of the Chief Medical Officer BSF in obtaining the letter of resignation submitted by the petitioner.

6. Learned Counsel for the respondent submits that it is not a case of permanent insanity claimed by the petitioner. Counsel urges that medical evidence relied upon by the petitioner shows that he was suffering from depression but not permanent depression or a depression of a kind which rendered the petitioner incapable of taking any decision. In any case, submits the learned Counsel for the respondent, if this Court were to hold that the letter of resignation submitted by the petitioner was not voluntary on account of petitioner suffering from depression, in view of the fact that the petitioner admitted his disability, the respondent would have a right to take action to terminate the services of the petitioner on account of medical disability. Counsel points out that in the year 1991, when petitioner was relieved from service after letter of resignation submitted by him was accepted, the petitioner had served for less than 3 years and even did not have the requisite qualifying services.

7. It is unfortunate that a writ petition raising a simple issue, filed in the year 1992, could not be decided by this Court till today.

8. The petitioner joined service under the respondent on 1.1.1988 and stopped reporting for duty after a few months. He did not submit any application for leave and before the respondents could take action under the service rules applicable, he submitted a letter on 1.6.1990 tendering his resignation which was accepted and that was the end of his service under the respondents till the petitioner raked up the issue in the year 1992.

9. We are inclined to agree with the submissions urged by learned Counsel for the respondent that in the facts and circumstances of the instant case, it would be difficult to grant any relief to the petitioner.

10. Firstly, for the reason, due to" Alopecia ,a condition not claimed to be attributable to the service under the respondents, the petitioner, a young man aged 28 years, went into a state of depression; but not of a kind proved on record, rendering petitioner to be equated as an insane person. Thus, it cannot be said that the petitioner signed on the dotted lines while submitting the letter of resignation.

11. We note that the Chief Medical Officer, in respect of whom, the petitioner claims having been compelled or made to sign the letter of resignation, has not been impleaded as a respondent. He/she alone could have refuted the allegations of the petitioner.

12. That apart, a highly disputed question of fact, requiring evidence to be led, has been raised in the instant petition.

13. Assuming that the petitioner was in state of such depression that his rationality was impaired; the effect would be that the petitioner, employed as a Sub Inspector under BSF, would be rendered incapacitated on medical grounds to serve under the respondent and in said eventuality also would be liable to be discharged on medical grounds. Noting that as of the year 1990 the petitioner had rendered just about 2 years of service, it would make no difference for the reason the petitioner had not even qualified for pensionable service in the year 1990.

14. Declining relief as prayed for, we dismiss the writ petition.

15. No costs.