
(2022) 06 TEL CK 0026
In the Telangana High Court
Case No : Writ Appeal No. 351 Of 2022

M. Laxmaiah

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 07-06-2022

Acts Referred:

Central Civil Services Pension Rules, 1972 — Rule 26
Central Reserve Police Force Rules, 1955 — Rule 17, 17A
Central Reserve Police Force Act, 1949 — Section 6

Citation : (2022) 06 TEL CK 0026

Hon'ble Judges : Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : Mohd Gulam Rasool, Namavarapu Rajeshwar Rao

Final Decision : Dismissed

Judgement

1. The present writ appeal is arising out of the order dated 28.03.2022 passed by the learned Single Judge in W.P.No.18054 of 2011.

The facts of the case reveal that the appellant before this Court was appointed as a Constable in 1994 in the Central Reserve Police Force (CRPF) and he was transferred in the year 2009 to Nagaland. He reported to duty on 22.09.2009 and after working for about three months at Nagaland, he submitted an application for grant of leave for sixty days which was allowed. He again applied for long leave and the request was not accepted by the authorities. The appellant/writ petitioner finally submitted an application tendering resignation from service on 06.07.2010. The request of the appellant/writ petitioner was accepted by the competent authority i.e., Commandant on 15.07.2010. The appellant/writ petitioner thereafter on 30.07.2010 submitted an application for taking him back into service. However, the authorities have passed an order dated 21.04.2011 rejecting the request of the appellant/writ petitioner for withdrawal of his resignation. The learned Single Judge has dismissed the writ petition on the ground that the request for withdrawal of resignation was made after its

acceptance as well as after the date mentioned in the resignation letter.

Learned counsel for the appellant has vehemently argued before this Court that keeping in view the provisions as contained under Rule 26 of the Central Civil Services Pension Rules (for short "the Rules"), the resignation could not have been accepted prior to completion of 90 days period and the appellant/writ petitioner was having a liberty to submit an application for withdrawal of resignation before expiry of 90 days period.

Rule 26 of the Rules is reproduced as under:-

"26. Forfeiture of service on resignation.- (1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.

(2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(3) The order accepting the resignation should clearly indicate that the Government servant has resigned to join another appointment with proper permission and a specific entry to this effect shall also be made by the Head of Office in the service book of the Government servant.

(4) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

(5) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely :-

(i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;

(ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person applies for permission to withdraw the resignation is not more than ninety days;

(iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.

(6) Request for withdrawal of a resignation shall not be accepted by the

appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(7) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

(8) A resignation submitted for the purpose of rule 35 or rule 36 shall not entail forfeiture of past service under the Government."

This Court has carefully gone through the aforesaid statutory provision of law. It deals with forfeiture of service on resignation and the various contingencies relating to withdrawal of resignation, but nowhere it provides that a resignation tendered and accepted by the competent authority can be withdrawn within a period of 90 days. Therefore the argument of the learned counsel for the appellant is misplaced.

Undisputedly, the appellant/writ petitioner was a Member of CRPF governed under the provisions of the Central Reserve Police Force Act, 1949 (for short "the CRPF Act") read with the Central Reserve Police Force Rules, 1955 (for short "the CRPF Rules").

Section 6 of the CRPF Act reads as under:-

"6. Resignation and withdrawal from the Force:-No member of the Force shall be at liberty to—

(a) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service; or

(b) withdraw himself from all or any of the duties of his appointment, without the previous permission in writing of the Commandant or Assistant Commandant or any other officer authorised by the Commandant to grant such permission."

The aforesaid statutory provision of law makes it very clear that a member of the Force is at a liberty to resign from his appointment after completion of three months of his service. In the present case, the appellant/writ petitioner was having certainly three months of service to his credit and in those circumstances, he has submitted his resignation with open eyes.

The CRPF Rules, as contained under Rules 17 and 17-A, are reproduced as under:-

"17. Discharge: Subject to the provisions of the schedule appended to the Act, any member of the Force shall at any time before he has completed three months service or after the completion of the full period of service for which he is

engaged, be entitled to claim his discharge from the Force by applying to his appointing authority through the proper channel.

17-A RECOVERIES ON RESIGNATION AND DISCHARGE:

A member of the Force seeking resignation under rule 16 or discharge under rule 17 from service shall be required to refund to the Government a sum equal to three months pay and allowances received by him or her prior to the resignation or discharge, as the case may be, or the cost of training imparted to him or her in the Force, whichever is higher:

Provided that in the case of a member of the Force seeking discharge from service under rule 17 within the period of three months from the date of enrolment, the sum equal to three months pay and allowances shall be calculated with reference to three months pay and allowances which would have been received but for discharge:

Provided further that a member of the Force tendering resignation or seeking discharge from service for accepting a job under the Central or State Governments or local bodies, after having been granted cadre clearance for the same, shall not be required to refund the sum as provided herein above."

The aforesaid statutory provisions of law also entitle a member of the Force, in case he has completed three months of service or after completion of full period of service for which he is engaged, to claim discharge by submitting appropriate application to the competent authority.

The CRPF Act read with the CRPF Rules also do not provide that a resignation cannot be accepted prior to expiry of 90 days period.

In the present case, the appellant/writ petitioner did submit his resignation with open eyes, the same was accepted by the authorities and after its acceptance, all efforts are being made for its withdrawal. The law does not provide for such withdrawal after its acceptance keeping in view the Rules and the CRPF Act read with the CRPF Rules framed thereunder. No other statutory provision of law has been brought to the notice of this Court by the learned counsel appearing for the appellant/writ petitioner which provides for withdrawal of resignation prior to expiry of 90 days period. Therefore, this Court does not find any reason to interfere with the order passed by the learned Single Judge.

Resultantly, the writ appeal stands dismissed.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.