
(2000) 02 DEL CK 0116
In the Delhi High Court
Case No : CWP No. 4221 of 1997

Rajiv Bahadur

APPELLANT

Vs

Indian Airlines Ltd. and Others

RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : (2000) 54 DRJ 314

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Sachin Dutta, for the Appellant; Rajiv Nayyar and Ratna Dwivedi, for Respondents 1-3 and Saleem Ahmed for UOI, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Sikri, J.—Petitioner was working with Indian Airlines, as Deputy Manager (Office Administration). He submitted application for voluntary retirement on 26.6.1996. His application was accepted and he was permitted to retire voluntarily on 15.7.1996. His dues, as a result of the aforesaid retirement, were worked out and paid to him. In this writ Petition, he challenges the order dated 15.7.1996 by which he was voluntarily retired, as arbitrary and colourable exercise of power.

2. The factual matrix around which. Petitioner has woven his case can be summarised first. Petitioner is a victim of "dwarfism" and is a congenitally handicapped person. He got employment with Indian Airlines Corporation, Respondent No. 1 on 25.3.1969 as Stenographer. He was promoted from time to time and in January 1991, he got promotion as Deputy Manager (Office Administration). He claims that he was an efficient employee who had been performing his duties with dedication and honesty and he could overcome his being congenitally handicapped person due to his hard work. It was for this reason that he had the experience of working with top executives of the respondent and he was posted with officiating Director(Finance) Mr. R.L, Saxena in April 1994. However with the said posting his period of misfortune began. The

Petitioner alleges that at that time Managing Director of Respondent had his favorites in the matter of appointment to the post of Director(Finance) and he was not in favor of Mr. Saxena for appointment to the said coveted post although Mr. Saxena was the senior most candidate and was officiating as Director(Finance). At that time certain newspapers reported that there was some tension between the Chairman and the Managing Director. Incensed by this bad publicity an investigation was ordered and Petitioner became the focus of suspicion only because he was working with Mr. Saxena, one of the rejected candidates for promotion. Respondent No. 2 somehow believed the Petitioner had obtained the letter dated 9.8.1994 written by Shri Padmanabiah, the then Chairman of the Corporation and alleged to have added a note "An eye opener case of MD's exceeding his delegated authority on his Adviser's advise. Continuation of Ad-hoc Selection Boards for which MD has no authority. What a way to choose the favorites and bluff the Board subsequently. Should such ail MD continue" which was the basis of charge of misconduct against the Petitioner. The prolonged enquiry process initiated against him lasted for about 22 months caused his nervous breakdown. On top of it, he was denied his natural and fundamental right of access to documents and obtain copies thereof from the Management for the purpose of making his defense, which was his basic right. To add to the Petitioner's misery, he was also deprived of payment of subsistence allowance for over 3 months and whatever subsistence allowance and other payments were paid to him were not even correctly reflected in the statements issued from time to time. The Petitioner had to go through this traumatic experience for no rhyme or reason and was continuously ill-treated and further even before the alleged guilt could be established, his name was struck off from the rolls of the Planning Department in 1995 and he was not treated as being on the Standard Force of the Planning Department, contrary to the rules and regulations of the Respondent. He was not assigned any duty, continuously humiliated and insulted. But he was determined to get himself cleared off the false charges leveled against him. Though the Petitioner's suspension was revoked by the Respondents after sometime the Petitioner was deliberately kept without assigning any duties by the Respondents.

3. According to the Petitioner, under the aforesaid compelling circumstances. duress and coercion he was forced to apply for voluntary retirement and he submitted application for this purpose on 26.6.1996. The Petitioner was aged 47 years at that time and a service of 11 years was still left. This letter dated 26.6.1996 reads is under:

"Much as I would have liked to serve the Organisation and earn my livelihood, the defamatory allegations made against me in the past have broken me so much that I am afraid I shall not be able to do any justice to the job assigned, if any. In the circumstances, Therefore, I am only compelled to request you to please allow me to retire from the service under the voluntary retirement as per rules IF and when the enquiry instituted by you holds me not guilty.

2. I take this opportunity to convey my sincerest gratitude to the Organisation for having provided the livelihood to an handicapped for over 27 years. My special thanks to your Deputy Manager(Planning) whose unthoughtful over- enthusiasm kept me on the alert in the otherwise dullest period of my service.

Your early decision shall be greatly appreciated which would only avoid conversion of an handicapped into an insane handicapped."

4. On 5.7.1996 Petitioner was exonerated of the charges leveled against him and order was passed to the effect that Petitioner will be entitled to full pay and allowances for the period of suspension from 28.9.1994 to 5.3.1995. Thereafter Petitioner submitted another letter dated 8.7.1996 referring to his application for voluntary retirement dated 26.6.1996 and again requesting the Respondents to allow him to retire on 15.7.1996 and further requesting that remaining notice period may also be waived as a special case. The operative part of this letter reads as under:

"With reference to your Memo No. DP/AP/346/839 dated 5 July 1996 and in continuation of my letter dated 26 June 1996, I may be allowed to retire under the voluntary retirement on 15 July 1996 and the remaining notice period may please be waived as a special case. I may also please be allowed to encash the privilege and the sick leave standing to my credit on the date of my retirement.

2. An early communication of your decision is requested."

5. This letter evoked response from the Respondents in the form of communication dated 15.7.1996 intimating the Petitioner that his request have been accepted and he would stand relieved w.e.f. close of office hours on 15.7.1996. Thereafter on 5.8.1996, a sum of Rs. 6.68 lacs was paid to the Petitioner in the form of terminal dues and balance amount of Rs. 56,000/- on this account was also paid on 23.9.1996. Much after receiving the aforesaid dues, Petitioner made representation. The first representation, put on record, is letter dated 6.2.1997 which is addressed to Managing Director. Copy of this was also addressed to "Union Home Secretary which was forwarded by him to the Respondent by letter dated 11.2.1997 stating that Respondent may like to dispose of the matter in the manner deemed fit. However as the Petitioner did not hear anything thereafter, he filed the present writ Petition.

6. Mr. Sachin Dutta, learned counsel appearing for the Petitioner challenged order dated 15.7.1996 retiring Petitioner voluntarily from service on following two counts:

1) The letter of voluntary retirement given by the Petitioner was not a "voluntary act" on the part of the Petitioner. He narrated the background, as already noticed above, in which the said letter of voluntary retirement dated 26.6.1996 was given by him and he submitted that Petitioner was subjected to systematic victimization including initiation of departmental proceedings on false grounds as well as illegal suspension. The Petitioner was mentally wrecked and in these

circumstances he was forced to write letter dated 26.6.1996. He referred to the language of his letter dated 26.6.1996 and submitted that even in this letter it was written that because of the defamatory allegations made against him in the past which had broken him, that he was compelled to request for voluntary retirement. According to Mr. Dutta, the language of the letter itself shows that it was involuntary and forced act. the Petitioner being forced by circumstances created by Respondents. Such a letter should not be treated as letter written out of his own free will. Consequently, the acceptance of such a request by letter dated 15.7.1996 would also be bad in law.

2) It was further contended that in any case acceptance of resignation by letter dated 15.7.1996 was violative of Regulation 12 of the "General Employees Service Regulations" (hereinafter referred to as Service Regulations) as per which 3 months" notice was required. This notice period could not be waived. Therefore, according to the Petitioner, the resignation letter dated 26.6.1996 could be accepted only on the expiry of 3 months" period there from and not before that. Accepting of this resignation before the expiry of 3 months" was invalid.

7. Repelling the aforesaid contentions of Mr. Dutta, Mr. Rajiv Nayyar, learned senior counsel appearing on behalf of Respondents argued that the Petition filed by the Petitioner was afterthought and the Petitioner was estopped from challenging the validity of order dated 15.7.1996. It was submitted that on 26.6.1996 letter of resignation was submitted by the Petitioner. He joined issue on the "involuntary character" of this letter by submitting that whatever was the reason, it was the Petitioner's own choice based on his own belief that he would not be able to do the job assigned to him and applied for voluntary retirement. He further submitted that even if it is presumed that because of allegations made against him in that the charge sheet that he was submitting the resignation, this position ceased to exist when Petitioner was exonerated of the charges by order dated 5.7.1996, and as on this date, no enquiry was pending against him. Still he chose to renew his request by letter dated 8.7.1996 and this showest that he did not want to work with the Respondent. Not only this, the Petitioner was paid his dues on 5.7.1996 and 23.9.1996 and he received the same willingly without any protest. It is much thereafter that in February 1997, the Petitioner started making all these allegations of harassment etc. As far as waiver of notice period is concerned, it was submitted that the Petitioner himself requested that the waiver in his letter dated 8.7.1996 and agreeing to his request that the notice period was waived and Petitioner was relieved from his duty w.e.f. 15.7.1996, the date on which he himself wanted to be relieved. Therefore he could not take advantage of his own wrong.

8. I have considered the respective submissions of both the parties and have gone through the record.

9. Before dealing with the contentions of the Petitioner, let me first analyze the undisputed facts. Petitioner had submitted his application for voluntary

retirement on 26.6.1996. No doubt, in this application he has stated that he is submitting his application for voluntary retirement in view of defamatory allegations made against him. However he himself states in the same very application that his application for voluntary retirement be accepted when the inquiry instituted against him holds him no guilty. Thus the Petitioner was conscious of the fact that during the pendency of the inquiry, his application for voluntary retirement may not be accepted. He Therefore wanted his application to be accepted even when he is ultimately found to be not guilty in the departmental inquiry which was pending against him at the time when he submitted the application for voluntary retirement. Further he was in fact exonerated on 5.7.1996 and immediately thereafter on 8.7.1996 he wrote another letter renewing his request referring to his application dated 26.6.1996 for voluntary retirement and requested to Respondents to accept his application and allow him to retire on 15.7.1996. Thus even when the Petitioner was exonerated of the charges, his conscious decision was to seek voluntary retirement. He wanted to be relieved as early as possible and Therefore himself chose the date of 15.7.1996 requesting Respondents to waive the notice period. It is his request which was accepted by the Respondents, and accepting his application for voluntary retirement he was relieved on 15.7.1996. Thereafter his dues were also settled and he received a sum of Rs. 6.68 lakhs on 5.8.1996 and balance amount of Rs. 56,000/- on 23.9.1996. Thus after the application for voluntary retirement of the Petitioner was accepted and he was relieved on 15.7.1996, Respondents paid the amount over a period of two months and in these two months also he did not state that he wanted to withdraw his application. On the contrary, he accepted the dues as paid to him without any demur/protest. On this reason alone, the Petitioner is estopped from challenging order dated 15.7.1996 at such distance of time for which the writ Petition was filed in October 1997. Such plea cannot be accepted as the Petitioner cannot be allowed to rake up such issues after receiving benefits of this voluntary retirement. (Refer *Kanchan Kapoor & Ors. v. Family Planning Association of India* 2000 I AD(Delhi) 501 and *S.K. Sarkar v. CMD Hindustan Steel Works Construction Ltd. & Ors.*, 1999 Labour Law Reporter, 755). Even after accepting these dues, Petitioner for sufficiently long period of time did not make any fuss and the first representation he made was on 6.2.1997 which is almost 7 months after his retirement on 15.7.1996. Even this representation at this belated stage is of no help to the Petitioner. Interestingly in this representation Petitioner has made detailed allegations about the so called harassment meted out to him. However he does not even state that the order dated 15.7.1996 accepting his application for voluntary retirement which was allegedly given under forced circumstances, be withdrawn. In fact after elaborating the acts of harassment and victimization on the part of the Respondents, the Petitioner only states that final settlement of account remains unsettled even after six months of his "enforced voluntary retirement". Thus he is at this point of time talking of settlement of account. It seems that what prompted him to make that representation dated 6.2.1997 was that inspire of his acquittal in the

departmental inquiry, no action was taken against Managing Director and case against him had been shelved. It is clear from paras 6 & 7 of the said representation which read as under:

"6. On 24 January 1997, Shri Udayan Parmar, IPS, Director, Security, informed me that the case of the alleged malignment of the Managing Director had been shelved. I was surprised at the shelving of the case, and perhaps so was Shri Parmar, because the allegation of malignment stood by itself, with or without my involvement. It needs an instigator to malign, and I was now absolved of that blame, there had to be someone else who had perpetrated the malignment; and, he should be pursued. The shelving of the case, after my acquittal, would suggest that the whole exercise was in order to convict me, and when no evidence/witness could be produced for such a conviction, the Management has decided to shelve the case.

7. I have written the above letter in as much sorrow as in anger, and in the hope that you will atleast now see that justice is done to me in the matter of my settlements, and that you tender an apology for the harassment, victimisation and humiliation you and the Management has caused me.

Thinking you in anticipation of an early response."

10. Thus even at this stage he was only asking for settlement of his accounts and demanding apology from the Respondents for harassing him. It is for the first time in the present writ Petition that request is made for quashing of order dated 15.7.1996. Such a plea, Therefore, is clearly afterthought and it becomes an additional ground to reject this Petition.

11. There is no force in the submission of the Petitioner challenging the impugned order dated 15.7.1996 on the ground that it is vocative of Regulation 12 of the Service Regulations. Counsel for the Petitioner had contended that as per these regulations, 3 months" notice was required to be given and there was no provision for waiver of this notice. Therefore accepting his application dated 26.6.1996 on 15.7.1996 was illegal and he relied upon the following judgments:

1. J.K. Cotton Spinning and Weaving Mills Company Ltd. Vs. State of U.P. and Others,
2. Punjab National Bank Vs. P.K. Mittal,
3. State of Haryana and Others Vs. S.K. Singhal,
4. Balram Gupta Vs. Union of India (UOI) and Anr,

12. His submission was that even if he had made request for waiver of notice period, the Respondents were bound by the statutory provision contained in Regulation 12 of the Service Regulations. As per that provision, 3 months" notice was required and there was no provision for waiver. He further submitted that such a provision, which had legal force could not be contracted out and Respondents could not take advantage of the fact that Petitioner had asked for

Waiver of the notice period. He also submitted that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden. For this proposition, he relied upon the following judgments:

1. AIR 1936 253 (Privy Council)
2. State of Uttar Pradesh Vs. Singhara Singh and Others,
3. A.K. Roy and Another Vs. State of Punjab and Others,
- 4 Myurdhwaj Cooperative Group Housing Society Ltd. Vs. The Presiding Officer, Delhi Cooperative Tribunal and Others,

13. A close scrutiny of mailer would reveal that this submission is without any merit. Relevant portion of the Regulation 12 reads as under:

"12. An employee shall retire from the service of the Corporation on attaining the age of 58 years provided that the competent authority may ask an employee to retire alter he attains the age of 55 years on giving 3 months" notice without assigning any reason. An employee

a) On attaining the age of 55 years; or

b) On the completion of 20 years of continuous service, may by giving 3 months" notice, voluntarily retire from service.

Provided that the voluntary retirement under clause (b), shall be subject to approval of the competent authority.

14. The aforesaid provision enables the. employer to retire an employee after he attains the age of 55 years on giving 3 months" notice. It also enables an employee to voluntarily retire from service on attaining the age of 55 years or on completion of 20 years of continuous service by giving 3 months" notice. The Petitioner exercised his option under this Regulation by giving notice on 26.6.1996. Admittedly, Petitioner did not withdraw the application for voluntary retirement, at any stage even after 3 months or even submitted that it was wrongly accepted before the expiry of 3 months period. In fact he does lodge any protest at all at any stage and the first representation is dated 6.2.1997 and even that does not touch this aspect. For this reason alone Petitioner is precluded from raising such an argument.

15. At this stage one may refer to recent judgment of Supreme Court, cited by Petitioner himself, i.e. State of Haryana and Others Vs. S.K. Singhal, . In this case Supreme Court has considered the law relating to the voluntary retirement in detail after analysing almost all possible judgments rendered by the Supreme Court earlier on the subject. The Court noticed that there are three categories of rules regarding giving of notice for voluntary retirement. In the first category, voluntary retirement automatically cones into force on the expiry of notice period. In second category also retirement comes into force unless an order is

passed during notice period withholding permission to retire. In third category, voluntary retirement does not come into force unless permission to this effect is granted by the competent authority. In this category refusal of permission can be communicated even after expiry of notice period. A particular case would fall in which category depends on the rules applicable in a particular department/body relating to giving of notice for voluntary retirement. It may however be added that the entire case was examined from the angle as to whether in a particular case the voluntary Retirement would automatically come into force on the expiry of notice period or specific acceptance was required before it comes into force. The court dealt with the aspect as to whether a particular rule contemplates a "notice to retire" or "request seeking permission to retire". The case did not deal with aspect with which we are concerned with in the present case namely when notice period is slated in the rule but the employee request for waiver of the notice, what would be the effect of that. In some rules, there is a specific provision made to the effect that employee can make a request for reducing/waiver of the notice period and on making such request appointing authority can consider such request for curtailment /waiver of the notice period. If there is such a rule, the matter does not pose any problem. However where there is no provision for making such a request and the rule is silent then what would be the position is the subject matter in the instant case. Although no judgment is cited by either party on this proposition, I am inclined to hold that even in the absence of any provision if employee makes a request, the employer can consider curtailment/waiver of the notice period because obligation is on the employee to give such a notice and on his representation for waiver employer can accede to his request. As the rule is silent on his aspect, it cannot be said that such a course would be against the rule or the parties are contracting against the statutory provision. Obligation is cast upon the employee to give such a notice. It may be stated that in terms of S.K. Singhal's case (supra) this case falls in third category and the voluntary retirement has to be accepted by the competent authority. Thus application of Petitioner is "request seeking permission to retire: After making this request he also makes another request for curtailment of notice period. The competent authority does nothing more than accepting his request. Thus when notice of 3 months is to be given by the employee it may be for two purposes namely i) giving sufficient time to employer to make other arrangements so that the employee does not suddenly leave the job and ii) giving a chance to the employee to reconsider his decision as he can decide to withdraw notice of voluntary retirement before expiry of 3 months. However in case employee himself chooses not to reconsider this decision and rather asked for waiver of the notice period so that he can be relieved earlier than the expiry of the notice period and the employer is agreeable to relieve earlier and accedes to the employee's request, parties can enter into such an arrangement and it will not be violative of Regulation 12 of Service Regulations. If the contention of the Petitioner is accepted, it would not only lead to anomalous and absurd situations but would cause hardship to employees themselves. There may be genuine situations where employee would like to be relieved earlier. Take for example a

case where the employee gets offer of better job where he is asked to join immediately. If the contention of Petitioner is accepted and both the parties have to necessarily wait for 3 months period, the employer would feel helpless even if it wants to help the concerned employee. Moreover effect of the Petitioner's contention is that both the parties have no right to sever that relationship even when both want it. Law cannot go that far to create a situation of bounded labour.

16. Before dealing with the cases cited by the learned counsel for the Petitioner, it may be reiterated that the issue involved in this case is as to whether it was permissible for the Respondents to waive the notice period of 3 months as stipulated in Regulation 12 when the Petitioner himself made request for such waiver and Respondent acceded to his request?

17. For the aforesaid reasons the cases cited by the Petitioner have no application to the facts and circumstances of the present case. In Balram Gupta(supra) the concerned employee had given 3 months' notice as required under the Rule. He withdrew the notice of voluntary retirement before the expiry of the 3 months' period. However he was not allowed to withdraw the said notice by the Respondent and was retired prospectively on expiry of notice period. This action of the Respondent was termed by the Supreme Court as illegal and the Court observed that on the facts of that case employee should have been allowed to withdraw the resignation submitted by him. It was not a case where the employee himself asked for waiver of the notice period. In this very case Supreme Court referred to AIR India Vs. Nergesh Meerza and Others, and Raj Kumar Vs. Union of India (UOI), and observed that the ratio of these cases was that till the resignation was accepted by the appropriate authority in consonance with the rules governing the acceptance, public servant concerned has locus penitential but not thereafter. In the instant case, Therefore these two judgments would be rather applicable and once the resignation of the Petitioner is accepted he has no locus to withdraw the said resignation.

18. In Punjab National Bank Vs. P.K. Mittal (Supra), the employee had given 3 months' notice for resignation under Regulation 20(2) of the P.N.B.(Officers) Service Regulations. Proviso to Regulation 20(2) empowered the bank to reduce the period, or remit the requirement of such notice. The employee had given notice dated 21.1.1986 giving his intention to resign w.e.f. 30.6.1986 that is beyond 3 months period. However his resignation was accepted with immediate effect and the bank relieved him on 7.2.1986. This action of the bank was challenged by the employee on the ground that the bank could not waive the notice period and the employee had right to withdraw the said resignation before the stipulated date. In this context, the Supreme Court held that employees resignation could take effect on a date chosen by him and mentioned in the notice namely June 30, 1986 or on the expiry of 3 months period namely April 21, 1986 but the bank could not have accepted it on any earlier date. It further mentioned that bank could reduce the period or requirement of notice only on the request from employee but not otherwise. In the instant case also it was the

Petitioner himself who made request for waiver of the notice period and the Respondent accepted his request. Although there is no provision in these rules still if the Petitioner made a request for waiver of the notice and this request was accepted by the Respondents, Petitioner cannot now turn back and say that even if he had made the request for waiver of notice, Respondent could not have waived the notice period. It may be stated that the obligation, as per the rules, is upon the employee to give 3 months' notice of voluntary resignation. Therefore it is not open for the Respondent to reduce the period suo moto. However if the concerned employee makes a request or not. If Respondent agrees to the request then it is for the Respondent to agree to that request then it would not be open to the concerned employee, Petitioner in the instant case, to allege that such an action of the respondent although taken on his request, is bad in law.

19. Another authority Cited by the Petitioner is J.K. Cotton Spinning and Weaving Mills Company Ltd. Vs. State of U.P. and Others, . In that case the Court held that when employee resigns from service, it amounts to voluntary retirement and Therefore would not be "retrenchment" u/s 2(s) of the U.P. Industrial Disputes Act, 1947 or section 2(oo) and section 25F of the Industrial Disputes Act, 1947. The Court held that where a contract of service is determined on the employee exercising his right to quit, such termination cannot be said to be at the instance of employer to fall within the first part of definition of retrenchment in section 2(s) of the U.P. Industrial Disputes Act, 1947. Elaborating the nature of resignation, the Court observed as under :

"One of the ways of terminating the contract of employment is resignation. If an employee makes his intention to resign his job known to the employer and the latter accepts the resignation, the contract of employment comes to an end and with it stands severed the employer-employee relationship. Under the common law the resignation is not complete until it is accepted by the proper authority and before such acceptance an employee can change his mind and withdraw the resignation but once the resignation is accepted the contract comes to an end and the relationship of master and servant stands snapped. Merely because the employer is expected to accept the employee's resignation it cannot be said that the employer has brought about an end to the contract of employment so as to bring the case within the first part of the definition of retrenchment. A contract of service can be determined by either party to the contract. If it is determined at the behest of the employer it may amount to retrenchment unless it is by way of punishment for proved misconduct. But if an employee takes the initiative and exercises his right to put an end to the contract or service and the employer merely assents to it, it cannot be said that the employer has terminated the employment. In such cases the employer is merely acceding to the employee's request, may be even reluctantly. Here the employee's role is active while the employer's role is passive and formal. The employer cannot force and unwilling employee to work for him."

20. In Shri Lachoo Mal Vs. Shri Radhey Shyam, while interpreting Section 1-A of

U.P. (Temporary) Control of Rent and Eviction Act, 1943, Supreme Court held that the same being meant for the benefit of owner of the buildings and if a particular owner did not wish to avail of the benefit of the Section, there was no bar in his waiving the benefit. Again in Indira Bai Vs. Nand Kishore, , the right conferred on a preempted by Section 8 of the Rajasthan Pre-emption Act, 1966 requiring a vendor to serve notice on persons having right of pre-emption as a condition of validity of transfer was held as amenable to waiver. It was pointed out that the nature of the interest created by the aforesaid section was a right of the party alone and not of the public as such.

21. Thus where the employee himself asked for waiver of notice period and his request is accepted by the employer, such a waiver would be permissible under the law as it has been occasioned by the act of employee and not that of employer.

22. One may have all sympathies with the Petitioner who took decision to resign/voluntary retirement in such circumstances which were not his creation. However only on sympathy one cannot grant any relief to the Petitioner when the case of the Petitioner has no legal support as relief can be given only if Petitioner is entitled to the same under the law and not on the basis of compassion. It is rightly said compassion cannot supplant law". However keeping in view the circumstances under which Petitioner took decision to seek voluntary retirement, added with the fact that Petitioner is a handicapped person, I only hope that if Petitioner applies for fresh appointment with the Respondent Corporation, the same shall be considered favourably by the Respondents of course subject to in accordance with Rules and Regulations of the Respondent Corporation. In any case matter is entirely within the discretion of the Respondents.

23. The Petition otherwise fails and is dismissed. There shall be no order as to costs.