
(2016) 04 PAT CK 0023

In the Patna High Court

Case No : Letters Patent Appeal No. 1889 of 2012

Sunil Kumar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-04-2016

Acts Referred:

Citation : (2016) 2 BLJud 241

Hon'ble Judges : Mr. Navaniti Prasad Singh And Smt. Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : Mr. Vivek Prasad, Advocate, for the Appellant; M/s. S.D. Sanjay, Addl. S.G., Senior Advocate and Rakesh Kumar Sinha, CGC, for the Respondents

Final Decision : Dismissed

Judgement

Mr. Navaniti Prasad Singh, J.(Oral)—This intra-Court Appeal is from the judgment and order dated 9-5-2011 passed in C.W.J.C. No. 9713 of 2009 by the learned Single Judge of this Court, dismissing the writ petition filed by the writ petitioner-appellant.

2.Heard learned counsel for the appellant and learned Additional Solicitor General, and with their consent the Appeal is being disposed of at this stage itself.

3. The short facts are that the writ petitioner-appellant was recruited as Sipoy in Bihar Regiment. On 19-9-2005 the writ petitioner-appellant filed an application in the Regimental Headquarter, seeking to retire from Defence Services on the ground of family problems. The Company Commander recommended the same on 21-9-2005. It is not in dispute that on 9-10-2005 the Area Commander in the Regimental Office accepted the letter of resignation and issued instructions for discharge, which was to be effective from 1-6-2006. It was also stated therein that on 7-5-2006 there would be a discharge drill prior to his discharge with effect from 31-5-2006, which date was also fixed. Thereafter, having attended the discharge drill on 7-5-2006, on 15-5-2006 the writ petitioner-appellant attempted to recall his earlier letter dated 19-9-2005 offering to resign. That was

not acceded to, and this is how ultimately the matter came up before the learned Single Judge, who, noticing the aforesaid facts, dismissed the writ petition. Hence, the Appeal.

4. Having considered the matter, in our view, the case at hand is simple. The writ petitioner-appellant had sent a proposal to resign. That proposal was recommended for acceptance, and thereafter accepted. He was also informed about the various formalities as also the discharge drill. He accepted those and participated in the discharge drill, and just a week before the date for formal discharge, he sought to withdraw his proposal. This could not have been permitted, inasmuch as this proposal having accepted and acted upon by the Army, had crossed the stage. It is well-settled that before the acceptance of the proposal, a person has a right to revoke his proposal, but once the acceptance is there, and that is also communicated and acted upon, the proposal cannot be withdrawn.

5. Thus, we find no merit in this Appeal. It is, accordingly, dismissed.

6. Mr. Vivek Prasad, learned counsel for the writ petitioner-appellant submits that the effect of the order of this Court would have disastrous consequences, inasmuch as the writ petitioner-appellant, who has served the Army over eleven years, is left with no remuneration. The Additional Solicitor General points out, in view of the statement in the counter-affidavit, that the writ petitioner-appellant has been granted thirty percent disability pension for life. Thus, the apprehension appears to have been allayed.