

Court No. - 2

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Case :- WRIT - A No. - 14000 of 2020

Petitioner :- Khoob Singh

Respondent :- High Court Of Judicature At Allahabad And 2 Others

Counsel for Petitioner :- Pratik Chandra

Counsel for Respondent :- Ashish Mishra

Hon'ble Suneet Kumar,J.

1. Heard learned counsel for the parties and perused the material placed on record by the respective parties.

2. Petitioner pursuant to an advertisement, issued by this Court in September, 2014, applied for the post of Junior Assistant and Paid Apprentice. Simultaneously, the petitioner also applied for the post of Stenographer / Junior Stenographer pursuant to an advertisement issued by the Railway Recruitment Board, Ministry of Railways, Government of India, dated 11 October, 2014. The petitioner qualified the selection process, accordingly, came to be appointed Clerk in the judgeship of Jalaun at Orai vide appointment letter dated 08 August, 2015. Pursuant thereof, petitioner, immediately, joined the said post and started performing his duties at Orai. Thereafter, petitioner received a call letter from the Railway Recruitment Board, for the post of Stenographer. Accordingly, petitioner applied for No Objection Certificate (N.O.C.) before the second respondent, District Judge, Jalaun, to appear and take the examination, which was duly approved vide order dated 01 February, 2018. Petitioner came to be selected by the Railway Recruitment Board, Chandigarh, vide order dated 04 February, 2020, consequently, appointment letter was issued on 03 June, 2020, for the post of Stenographer (Hindi). On being selected in the Railways, petitioner made an application to appear for medical examination as mandated in the terms and conditions of appointment, which was granted by the office of second respondent on 07 July, 2020. On being selected, petitioner, thereafter, tendered his resignation on 17 July, 2020, clearly stating therein that since he has been selected on the post of Stenographer (Hindi) with the Railways, he may be relieved to join the said post.

3. It is urged that on specific query made by the second respondent, as to when the petitioner desires to be relieved, petitioner vide communication dated 12 August, 2020, informed the second respondent that petitioner's resignation be accepted w.e.f. 13 August, 2020. On submitting the said letter, petitioner joined the Railways on 14 August, 2020, on an impression that his resignation would have been accepted from the date as desired. However, the second respondent passed the impugned order dated 20 August, 2020, taking a hyper technical approach, wherein, it has been noted that under Rule (4) of the Uttar Pradesh Government Service Rules, 2000, since petitioner had not tendered his resignation from service on three months notice, consequently, his resignation was rejected.

4. It is urged by the learned counsel for the petitioner that the conduct of the second respondent is absolutely arbitrary and highhanded. Petitioner cannot be compelled to render services at the judgeship against his wishes. Petitioner had duly informed the authorities before the examination and on being furnished N.O.C., petitioner had appeared in the examination, as well as, medical examination, conducted by the Railways. Thereafter, tendered his resignation and had also clearly stated the date when he desires to be relieved. It is urged that proviso to Rule (4) clearly provides that the appointing authority can allow the government servant to resign without any notice or shorter notice.

5. Rule 4 of the Government Service Rules, 2000 read as follows:-

4. Notice of Resignation- (1) A Government servant may resign from his service by giving three months notice in writing. (2) The notice of resignation shall be-

(i) voluntary and unconditional;

(ii) addressed to the appointing authority under intimation to the authority under whom the said Government servant is working at the time of tendering resignation:

Provided that it shall be open to the appointing authority to allow a Government servant to resign without any notice or by a shorter notice.

6. The stand taken in the counter affidavit is that the petitioner being a government employee cannot lawfully contribute at two places simultaneously. The resignation tendered by him has not been accepted by the second respondent.

7. It is submitted by learned counsel for the respondent that technically speaking petitioner as on date is appointed in two organization, though salary is not being paid to him since the petitioner left and joined the new organization. In Paragraph No. 4, it is stated that petitioner is not appearing before the enquiry officer to face enquiry. On specific query, the learned counsel for the respondents fairly submits that no specific reason as such has been assigned for withholding the acceptance of the resignation of the petitioner.

8. In my opinion, conduct of second respondent is not only arbitrary but highly unreasonable. An employee is entitled to seek betterment of his career by applying in any government organization. It is not the case of the respondents that petitioner had not informed or taken prior permission from the competent authority (second respondent) before appearing in the examination. N.O.C was duly issued to the petitioner for appearing in the examination. It is apparent that the conduct of second respondent compelled the petitioner to proceed and join the post with the Railways on 14 August, 2020, on an impression that his resignation came to be accepted w.e.f. 13 August, 2020. After joining the newly selected post by the petitioner, the impugned order came to be passed on 20 August, 2020. It is not the case of the respondents that petitioner was facing enquiry or was under suspension.

9. In my opinion, an enquiry should have been initiated against the second respondent as to why impediment was created in not allowing the petitioner to resign forthwith in exercise of power under proviso 2 of Rule 4. Petitioner has been subjected to mental harassment and made to suffer for the conduct of the second respondent. Petitioner is not at fault, but has been subjected to disciplinary

enquiry only for the reason that the resignation was not preceded by three months notice. It does not qualify to bring the conduct of the petitioner within the ambit of misconduct.

10. Having regard to the facts and circumstance of the case, the writ petition is **allowed**. The impugned order dated 20 August, 2020, and the consequential enquiry initiated against the petitioner is set aside and quashed. The second respondent shall issue letter for acceptance of the resignation and relieving order w.e.f. 13 August, 2020, within a week from the date of filing a copy of this order. A copy thereof shall be endorsed to the Railways.

11. Since, the petitioner has suffered harassment and inconvenience at the hands of a judicial officer, petitioner is entitled to cost assessed @Rs. 21,000/- to be paid by the second respondent within a week.

Order Date :- 6.10.2021

Rameez