

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **5 .11.2015**

CORAM:

THE HONOURABLE MR. **JUSTICE SATISH K.AGNIHOTRI**

and

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**

Review Application (Writ) No.86 of 2015

Dr.S.Prescila : petitioner
versus

1.The Director,
Rajiv Gandhi National Institute of
Youth Development,
Sriperumbudur 602 105

2.The Central Administrative Tribunal,
Madras Bench,
rep. By its Registrar,
Chennai 600 104. : respondents

Petition filed to review the order passed in W.P.No.29367 of 2014
dated 1.12.2014.

For petitioner : Mr.L.Chandrakumar

For respondent : Mr.G.Rajagopalan, Addl. Solicitor General,
for Mr.R.Marimuthu, for R-1

ORDER

K.K.SASIDHARAN, J.

This is an application for review of the order in W.P.No.29367 of
2014 on the ground that there is an error apparent on the face of the
record, liable for correction by exercising the review jurisdiction.

2. Heard the learned counsel for the applicant and learned Additional

Solicitor General on behalf of the first respondent.

3. The applicant was appointed as the faculty head in Rajiv Gandhi National Institute of Youth Development. While the applicant was working in the said capacity, she submitted her resignation through application dated 30 March 2013. Since the resignation was not accepted, the applicant submitted another application on 26 September 2013. Finally, the resignation was accepted by the Competent Authority by order dated 15 November 2013 with effect from 1 October 2013. Thereafter, the applicant submitted an application on 27 November 2013, withdrawing her resignation. The first respondent rejected the application for withdrawal of resignation by order dated 6 January 2014. The order was challenged before the Central Administrative Tribunal in O.A.No.310 of 2014. The Tribunal allowed the original application and directed the first respondent to reconsider the application for withdrawal of resignation on merits. The said order was challenged before this Court in W.P.No.29367 of 2014.

4. The Writ Petition was allowed primarily on two grounds. The first ground relates to the delayed submission of application for reconsideration of the order accepting resignation. The failure on the part of the applicant to prove the change of circumstance was the second reason for allowing the Writ Petition.

5. The applicant has now come up with a contention that her application withdrawing the resignation was within the period of ninety days. It was her further contention that the application withdrawing the resignation should be considered in the light of the subsequent representation dated 24 January 2014.

6. The resignation of the petitioner was accepted with effect from 1 October 2013. This Court, for the purpose of limitation, computed ninety days period from the date of giving effect to the resignation. The applicant has now pointed out that there is no provision in the service regulations for accepting resignation retrospectively. The first respondent is not in a position to produce statutory rules or regulations to demonstrate that it is legally permissible to accept resignation retrospectively. We therefore agree with the submission made by the petitioner that ninety days period should be computed only from the date of order viz., 15 November 2013. In case ninety days period is computed from the date of the order, the application submitted by the petitioner on 24 January 2014 would be well within the period of limitation.

7. Even though there is merit in the contention taken by the applicant

with respect to the ninety days period, still, she has not made out a case for review of the order in its entirety. Rule 26(4) of the CCS (Pension) Rules, 1972 provides that for withdrawal of resignation, there should be material change in the circumstances which originally compelled the employee to tender resignation. The applicant resigned from the post on the ground of her poor health and the health condition of her daughter requiring constant monitoring and parental support. However, in the application submitted for withdrawal of resignation, there was no mention with respect to the health condition of her daughter. The applicant simply stated that her health condition permits now to join duty. The said explanation would not satisfy the requirement of sub Rule (4) of Rule 26 of CCS (Pension) Rules, 1972. We are therefore of the view that the applicant has not made out a case for review of the order in W.P.No.29367 of 2014 in its entirety.

8. In the upshot, we dismiss the review application. No costs.

(SATISH K.AGNIHOTRI) (K.K.SASIDHARAN, J.)

5 November 2015

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SATISH K.AGNIHOTRI, J.
and

K.K.SASIDHARAN, J.

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