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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 10298/2018

KULDEEP SINGH ..... Petitioner
Through: Mr. Anil Singhal, Advocate.

versus

UNION OF INDIA AND ORS. ..... Respondents
Through: Ms. Shiva Lakshmi, CGSC with
Mr. Siddharth Singh, Advocate.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% 28.09.2018

1. The present petition has been filed by the petitioner praying *inter alia* for quashing and setting aside the orders dated 09.6.2016, 21.12.2016, 31.3.2017 and 14.11.2017, issued by the respondents declining his request for withdrawal of his resignation and for permitting him to join his duty.

2. A glance at the relevant facts of the case is considered necessary. On 02.6.2016, the petitioner was appointed as a Junior Engineer (Civil) with the respondent No.2/BRO after being selected in a competitive examination conducted by the SSC. The petitioner was deputed for training at the GREF Centre at Pune. Within four days from the date of reporting for training at Pune, the petitioner tendered his resignation letter to the respondents on the ground that he had been selected provisionally in the Railways. The letter submitted by the petitioner asking that he be relieved forthwith, was accepted by the respondents and vide letter dated 09.06.2016, the

respondents had relieved him from GREF Services with effect from the same date.

3. Though the petitioner had elected to leave the respondents left for greener pastures, it so transpired that his name did not feature in the shortlisted candidates drawn by the Railway, in terms of the revised panel. As a result, the petitioner was left high and dry. Feeling remorseful on being left jobless, at the end of very same month i.e., on 30.6.2016, the petitioner sent an email to the respondents asking for permission to rejoin his duty. Thereafter, he submitted an application on the same lines, on 24.8.2016. However, the respondent No.3 rejected the petitioner's request vide order dated 02.12.2016, reiterated on 31.3.2017. Yet again, the petitioner submitted a representation dated 25.4.2017, asking for permission to rejoin his duty, which was also rejected by the respondents vide order dated 14.11.2017. Aggrieved by the said rejection orders, the petitioner has filed the present petition.

4. Mr. Singhal, learned counsel for the petitioner submits that the respondents have erred in accepting the resignation of the petitioner and no such resignation could have been accepted within three years reckoned from date of the appointment; that the respondents have erred in rejecting the petitioner's request for permission to rejoin the duty because there was no delay on his part in submitting an application for seeking withdrawal of his resignation letter since he was relieved vide letter dated 09.6.2016 and had submitted an application for seeking withdrawal of his resignation on 30.6.2018.

5. Lastly, learned counsel for the petitioner relies on the Office Memorandum dated 04.12.2007, issued by the DoPT, Ministry of Personnel,

Govt. of India, on the subject of "*Referring of cases for withdrawal of resignation by the Ministry/Departments-guidelines*". He submits that the captioned Office Memorandum refers to Rule 26 of the CCS (Pension) Rules, 1972 that provides "*that the resignation from service or on a post unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service and that the Sub-rule (4) Rule provides the conditions under which the appointing authority may permit a person to withdraw his resignation in public interest"*. It is the contention of the learned counsel that the respondents ought to have invoked the aforesaid Office Memorandum and permitted the petitioner to rejoin as it empowers the appointing authority to permit a person to withdraw his resignation in public interest.

6. On enquiring from learned counsel for the petitioner as to what public interest would be served if the appointing authority had permitted the petitioner to rejoin his duty, no satisfactory reply has come forth except for submitting that the petitioner is facing a hardship.

7. We are of the view that the petitioner should have taken a calibrated decision before tendering his resignation to the respondents on 06.06.2016, knowing very well that his appointment with the Railways had yet to mature. However, the petitioner had showed great haste and without an appointment letter from the Railways, decided to tender his resignation in less than four days from the date he had joined the respondents, in terms of the appointment letter dated 02.6.2016. The respondents cannot be blamed in any manner for accepting the petitioner's resignation on 09.6.2016, since it was on his insistence that he must be relieved at the earliest to enable him to join the Railways.

8. For the aforesaid reasons, we do not see any infirmity in the impugned order that warrants interference. Accordingly, the present petition is dismissed in *limine*.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 28, 2018
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HIGH COURT OF DELHI