

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9890 of 2021

Smt. Indrani Hati
Vs.
The Union of India & Ors.

Mr. Subrata Bhattacharjya
... For the petitioner

Mr. Anuran Samanta
... For the respondents

The petitioner had joined in the Railway Protection Force (in short "RPF") in the Eastern Railway on 25th May, 2010 in the cadre as SIPF. While serving in the RPF, the petitioner after obtaining departmental sanction appeared in an examination conducted by Indian Overseas Bank for the post of Assistant Manager, Scale-I (Probationary Officer). On being successful, the petitioner resigned from the services of RPF on 25th August, 2014 and she was released on 28th August, 2014. The petitioner thereafter applied for her reinstatement in the services of RPF in Eastern Railway. The letters at pages 25 (Annexure P-5 of the writ petition) and 26 (Annexure P-6 of the writ petition) show that they were respectively dated 25th February, 2016 and 16th August, 2016. The petitioner has also annexed at page 27 of the writ petition a postal receipt which shows that the letter dated 18th August, 2016 was posted on 19th August, 2016.

The respondent authorities have rejected the petitioner's prayer for reinstatement on the ground that Rule 275 of the Railway Protection Force Rules, 1987 (hereinafter referred to as the "said Rules") is applicable to the petitioner which stipulates that the petitioner had to apply within two years from her resignation for re-enlistment. The petitioner has sought for reinstatement which is impermissible under the said Rules.

The respondent authorities have further observed that even if the letter is considered to be for re-enlistment, then also the same has been submitted after two years and, as such, re-enlistment under Rule 275 is not possible. The Railway authorities by their letter dated 13th October, 2020 have observed that even if the letter written by the petitioner is considered for re-enlistment and not reinstatement, it was for the petitioner to pursue the matter and get the re-enlistment application accepted within 28th August, 2016 following due procedure.

On behalf of the Railways, it is also submitted that the petitioner's prayer for reinstatement/re-enlistment cannot be granted as she applied for reinstatement and not for re-enlistment and that too after two years. The petitioner's prayer for lien cannot also be considered as she did not join any government organisation or post but joined Indian Overseas Bank.

After hearing the parties and considering the materials on record, I find that a letter which has been

correctly addressed, properly stamped and despatched through postal authorities unless returned back to the petitioner should be presumed to have been served in terms of the provisions of the General Clauses Act, 1897 (Clause 27). Admittedly, the two letters are dated prior to expiry of two years time period from the date of resignation. One of the letters has been despatched on 19th August, 2016, i.e., prior to 28th August, 2016. It is also an unacceptable proposition that the petitioner had to pursue the matter and get the application for re-enlistment admitted prior to 28th August, 2016 as observed in the letter dated 13th October, 2020. It was for the authorities to consider the said letter and the petitioner's role therein was very limited.

In the facts and circumstances as aforesaid, the Competent Authority is directed to consider the petitioner's application as an application for re-enlistment as per the provisions of Rule 275 of the said Rules having been made within two years from the date of resignation after affording the petitioner a reasonable opportunity to represent her case following the present Covid-19 protocol and dispose of the same by a reasoned order. The authorities shall be free to decide the matter afresh on merits since I have not gone into the merits of the application. The authorities, however, cannot reject the application on the ground that the same is made after two years or for reinstatement instead of re-enlistment. The

petitioner's applications dated 25th February, 2016 and 18th August, 2016 shall be considered in the light of the instant order within a period of six weeks from date. The reasoned order shall be communicated to the petitioner within 10 days from the passing of the same. As an abandoned caution, the petitioner and the advocate representing the respondents shall communicate a server copy of this order within a week from date.

The authorities concerned shall act on the basis of a server copy without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)