

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.328 of 2019

In
Civil Writ Jurisdiction Case No.11444 of 2019

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Arif Raza, S/o Late Md. Mohsin, R/o Village/Mohalla- Bithan, P.S.- Bithan,
District- Samastipur.

... .. Petitioner/s

Versus

1. The Union of India through the General manager, East Central Railway, Hajipur.
2. The General Manager, East Central Railway, Hajipur.
3. The Secretary, Railway Board, Rail Bhawan, New Delhi.
4. The Chief Personal Officer, East Central Railway, Hajipur.
5. The Divisional Railway Manager, East Central Railway, Hajipur.
6. The Senior Divisional Personal Officer, East Central Railway, Danapur.
7. The Assistant Divisional Personal Officer, East Central Railway, Danapur.
8. The Senior Divisional Delectrical Engineer / TRD, East Central Railway, Danapur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar, Advocate
For the Railways	:	Mr. Tuhin Shankar, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-07-2023

1. The present Civil Review Petition has been filed for reviewing the Orders of this Court dated 26.07.2019, passed in CWJC No. 11444 of 2019.

2. The Petitioner was appointed as Section Engineer on 07.09.1998. He had resigned the post on 28.09.2010 and requested that his resignation could be given



effect from 29.09.2010, as he had expressed that he would be contesting an Assembly Election from Hasnapur constituency of district Samastipur in Bihar. Taking note of the petitioner's request for resignation dated 28.09.2010, the official respondents accepted resignation on 21.10.2010. Thereafter, the petitioner submitted an application for withdrawal of resignation application on 28.11.2011.

3. It is to be noted that the petitioner had already suffered an Order before the CAT and feeling aggrieved by the Order of the CAT, he had presented CWJC No. 11444 of 2019 and it was dismissed on 26.07.2019. Hence the present Civil Review Petition.

4. The one and only argument advanced is that the Writ Court has not appreciated the portion of the Circular which governs resignation and its acceptance.

5. Learned counsel for the review petitioner relied on clause 3 of the Circular. Clause 3 of the Circular reads as under :

“ That the period of absence from duty between the date on which the resignation became effective and the date on which a person was allowed to resume duty as a result of permission granted for withdrawal on the resignation, is not



more than 90 days.”

6. In the guise of the aforementioned clause, the contention of the Review Petitioner is that the Review Petitioner had 90 days time to withdraw his application for resignation. Therefore, acceptance of resignation on 21.10.2010 is bad and in not considering the withdrawal application dated 26.11.2011 is also not in terms of clause 3.

7. Heard, learned counsel for the petitioner.

8. Scope of Review Petition is limited in the light of Order 47 Rule 1 of CPC. Clause-3 cited *supra* does not speak of a situation where a railway employee resigned on a particular date and it was accepted. Thereafter, he is permitted to withdraw. It is not permissible for the simple reason that resignation application read with its acceptance in the present case dated 28.09.2010 and 21.10.2010, results in acceptance of resignation has spent its force as on 26.11.2011, the date on which petitioner submitted withdrawal of resignation application. In other words, withdrawal of resignation after it's acceptance is impracticable. That apart as on 26.11.2011 petitioners application for resignation was not pending consideration.

9. The factual aspects of the matter is not fit into



clause-3 of the policy relating to resignation of railway employees. Therefore, there is no infirmity in the impugned order so as to recall and entertain the present Civil Review Petition.

10. Accordingly, the Civil Review Petition stands dismissed.

11. At this stage, learned counsel for the Petitioner submitted that identical person's grievance has been redressed by the Official Respondents. If it is so, illegality cannot be perpetuated and the judicial forum cannot bless such illegality and extend relief to a petitioner who has approached before the Judicial Forum, in view of the judgment rendered in the case of *R. Muthukumar v. TANGEDCO, [2022 SCC OnLine SC 151]*.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Skm/chandan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2023.
Transmission Date	NA

