

24.04.2024

Item No. 22

Ct. No. 238

AKG

WPA 2292 of 2024

Deepan Mazumder

Vs.

Union of India & Ors.

Mr. Sudip Sarkar,
Mr. Ratul Deb Banerjee,
Mr. Subrata Mandal,
Ms. Paramita Mandal,
Ms. Priya Nayak

...for the Petitioner

Mr. K. M. Hossain,
Ms. Tanuja Basak

...for the State

Ms. Debjani Ghosal

...for UGC

Mr. Souvik Nandy

...for Union of India

Ms. Mou Saha

...for Respondent Nos. 5, 6 & 7

The petitioner was appointed to the post of Security Officer at Indian Association for the Cultivation of Science ('the Association' in short) by a letter dated September 26, 2023. The said appointment letter required the petitioner to undergo a probation period of one year from the date of joining.

Following the appointment letter, the petitioner joined the Association on October 12, 2023.

Thereafter, by a letter dated November 22, 2023, the petitioner tendered his resignation citing personal grounds and the same was received by the Registrar of the Association on November 23, 2023.

On November 28, 2023, the petitioner sought to withdraw his letter of resignation and the said letter for withdrawal was received by the Registrar on the same date. Thereafter, by an office memorandum dated January 11, 2024, the Registrar informed the petitioner that his resignation has been accepted by the Director of the Association on November 23, 2023.

Though the aforesaid letter of the Registrar suggests that resignation of the petitioner was accepted on November 23, 2023. I am of the view that the effective date of acceptance of the resignation would be the date when acceptance of resignation was communicated to the petitioner. In the present case, acceptance was communicated to the petitioner by a letter dated January 11, 2024. Law is well-settled that that a government order becomes effective only when the same is communicated. Admittedly, the petitioner had withdrawn his resignation before the issuance of the said letter dated January 11, 2024 by the Registrar of the Association.

I am of the view that the letter dated January 11, 2024, could not have been issued to the petitioner.

The law is also well-settled that an employee can always withdraw his resignation letter before the same is accepted by the employer. **[See: (2007) 4 SCC**

492 (Secy Technical Education Vs. Lali Mohan Upadhyay).

In my view, since the petitioner had withdrawn his resignation letter before the same was accepted, the Association should have allowed the petitioner to join his duties.

In that view of the matter, the letter dated January 11, 2024, issued by the Registrar, Indian Association for the Cultivation of Science is set aside.

Respondent nos. 5, 6 & 7 shall allow the petitioner to join his duties as a probationer within a period of 48 hours from date.

The period of absence due to non-acceptance of resignation of the petitioner shall be regularised in accordance with law against the available leave of the petitioner.

Accordingly, **WPA 2292 of 2024** stands allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)