



2024:DHC:8842



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

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Date of Decision: 25th October, 2024

+ W.P.(C) 17309/2022

RAJ SHAILENDRA MUDLIAR

.....Petitioner

Through: Mr. Avinash K. Sharma, Mr. R. Abhishek and Ms. Purnima Vashishtha, Advocates.

versus

BUREAU OF INDIAN STANDARDS
& ORS.

.....Respondents

Through: Dr. Subhash C Gupta, Advocate for R-1/BIS.

Mr. Asheesh Jain, CGSC with Ms. Pooja Bhardwaj, Advocate with Ms. Vidhi Gupta, Govt. Pleader for R3/UOI.

119

+ W.P.(C) 327/2023

KUNAL ROY

.....Petitioner

Through: Mr. Avinash K. Sharma, Mr. R. Abhishek and Ms. Purnima Vashishtha, Advocates.

versus

BUREAU OF INDIAN STANDARDS
& ORS.

.....Respondents

Through: Dr. Subhash C Gupta, Advocate for R-1/BIS.

Mr. Asheesh Jain, CGSC with Ms. Pooja Bhardwaj, Advocate with Ms. Vidhi Gupta, Govt. Pleader for R3/UOI.



2024:DHC:8842



120

+ W.P.(C) 328/2023

RUPAM RAJ

.....Petitioner

Through: Mr. Avinash K. Sharma, Mr. R. Abhishek and Ms. Purnima Vashishtha, Advocates.

versus

BUREAU OF INDIAN STANDARDS
& ORS.

.....Respondents

Through: Dr. Subhash C Gupta, Advocate for R-1/BIS.
Mr. Vikram Jetly, CGSC with Ms. Shreya Jetly, Advocate for R3/UOI.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. These writ petitions have been preferred on behalf of the Petitioners assailing communication dated 20.01.2022, whereby Bureau of Indian Standards ('BIS')/Respondent No.1 informed the Petitioners that their resignations had been accepted by the Competent Authority on the condition that their Service Bonds will not be transferred as also communication dated 02.02.2022 intimating the rejection of their requests to transfer the Bonds to their new employer, Power System Operation Corporation Limited ('POSOCO')/Respondent No.2. Direction is sought to BIS to transfer the Bonds as well as to release withheld salaries for different periods along with interest. Since a common question of law arises in all the three writ petitions, they were heard together and are being decided by this common



2024:DHC:8842



judgment.

W.P.(C) 17309/2022

2. Petitioner is currently employed with Grid Controller of India Limited ('Grid-India'), a wholly owned Government of India Enterprise, formally known as POSOCO. An advertisement was issued by POSOCO on 30.08.2019 for recruitment to the post of Executive Trainee (Electrical) along with other posts and Petitioner applied on 25.03.2020. In the meantime, pursuant to a recruitment process initiated by BIS, Petitioner applied and was selected and appointed as Scientist 'B' vide appointment letter dated 28.08.2020 and joined on 06.09.2020. While working with BIS, Petitioner was selected with POSOCO and with an intent to join the said organisation, Petitioner submitted his resignation to BIS on 27.12.2021, which was accepted by the Competent Authority on 20.01.2022, subject to deposit of the Bond amount to enable BIS to relieve the Petitioner.

3. Petitioner gave a representation dated 21.01.2022 requesting to transfer the Bond amount or for not enforcing the Bond, citing relevant excerpts from DoPT Handbook for Personnel Officers 2013 ('DoPT Handbook'), Circular regarding enforcement of Bonds dated 14.11.1984 as also the terms of the Surety Bond submitted at the time of joining. However, vide letter dated 02.02.2022, BIS declined to accede to Petitioner's request without any reason and reiterated the pre-condition to furnish the Bond amount of Rs.3,13,394/- in addition to the withheld salary for the month of December 2021, January 2022 and 7 days salary for February 2022 as the total Bond amount was Rs.5,86,572/-.

4. Having no option, but without prejudice to his rights, Petitioner paid a sum of Rs. 3,13,394/- so that he could be relieved and the remaining amount



2024:DHC:8842



was adjusted against the withheld salary. Petitioner was appointed with POSOCO w.e.f. 09.02.2022 and was relieved from BIS w.e.f. 07.02.2022.

W.P.(C) 327/2023

5. Petitioner is currently employed with Grid-India. An advertisement was issued by POSOCO on 30.08.2019 for recruitment to the post of Executive Trainee (Electrical) along with other posts and Petitioner applied on 17.03.2020. In the meantime, pursuant to a recruitment process initiated by BIS, Petitioner applied and was selected and appointed as Scientist 'B' vide appointment letter dated 04.11.2020. While working with BIS, Petitioner was selected with POSOCO and with an intent to join the said organisation, Petitioner submitted his resignation to BIS on 29.12.2021, which was accepted by the Competent Authority on 20.01.2022, subject to deposit of the Bond amount to enable BIS to relieve the Petitioner. Aggrieved by this pre-condition, Petitioner gave a representation on 21.01.2022 citing relevant excerpts from DoPT Handbook and other instructions, including terms of the Surety Bond. However, vide letter dated 02.02.2022, BIS declined to accede to Petitioner's request without any reason and reiterated the pre-condition to furnish the Bond amount of Rs.3,97,955/- approximately, which included the unpaid salary of the Petitioner for 27 days for January 2022.

6. Having no option, but without prejudice to his rights, Petitioner paid the Bond amount on 04.02.2022 so that he could be relieved. Petitioner was appointed with POSOCO w.e.f. 09.02.2022 and was relieved from BIS.

W.P.(C) 328/2023

7. Petitioner is currently employed with Grid-India. An advertisement was issued by POSOCO on 30.08.2019 for recruitment to the post of



2024:DHC:8842



Executive Trainee (Electrical) along with other posts and Petitioner applied on 27.03.2020. In the meantime, pursuant to a recruitment process initiated by BIS, Petitioner applied and was selected and appointed as Scientist 'B' and joined BIS on 07.12.2020. While working with BIS, Petitioner was selected with POSOCO and with an intent to join the said organisation, Petitioner submitted his resignation to BIS on 05.01.2022, which was accepted by the Competent Authority on 20.01.2022 subject to deposit of the Bond amount of Rs.5,70,110/- to enable BIS to relieve the Petitioner. Aggrieved by this pre-condition, Petitioner gave a representation on 27.01.2022 citing relevant excerpts from DoPT Handbook, etc. and requesting to transfer the Bond amount to the new employer and not to enforce the same. However, vide letter dated 02.02.2022, BIS declined to accede to Petitioner's request without any reason and reiterated the pre-condition to furnish the Bond amount of Rs.5,70,110/- approximately, which included the withheld salary of the Petitioner for the period 01.01.2022 to 27.01.2022.

8. Having no option, but without prejudice to his rights, Petitioner paid the Bond amount on 07.02.2022 so that he could be relieved. Petitioner was appointed by POSOCO w.e.f. 09.02.2022 and was relieved from BIS.

9. Learned counsel for the Petitioners assails the impugned communications dated 20.01.2022, whereby technical resignations of the Petitioners were accepted with a pre-condition that service Bond will not be transferred and directing them to deposit the Bond amount forthwith in order to be relieved from BIS as also communication dated 02.02.2022, whereby Petitioners were informed of the rejection of their requests to transfer the Bonds to POSOCO with a direction to deposit the Bond money and argues



2024:DHC:8842



that the decision of BIS is contrary to Clause 40.2.1 of the DoPT Handbook. It is contended that the O.M provides that the Bond should be enforced against those Government Servants only, who leave Government service in order to secure Private employment but may not be enforced in case the Government Servant secures employment under the State Government, Public Sector Undertaking, owned wholly or partly by Central/State Government or a quasi-Government Organisation and since Petitioners did not leave BIS to join any private employment, Bonds furnished by them cannot be enforced and ought to be transferred to the new employer. Reliance is also placed on Clause 40.3.2 which provides that these instructions shall also apply to cases where an employee of the Central Government/Central Public Enterprise/Autonomous Body wholly or substantially owned/financed/controlled by the Central Government has been selected for a post/service, other than private employment, for which he had applied before joining the Department/Organisation etc. with whom he has executed a Bond. It is urged that Petitioners had applied with POSOCO for appointments to the post of Executive Trainee (Electrical) prior to applying with BIS and since POSOCO (Grid-India), is a Government of India Enterprise, they are covered by Clauses 40.2.1 and 40.3.2 of DoPT Handbook. Therefore, it is not open to BIS to enforce the Bonds against the Petitioners and retain their money.

10. Learned counsel appearing for BIS, the contesting Respondent, argues that Petitioners applied for the post of Executive Trainee (Electrical) with POSOCO prior to joining BIS but neither at the time of joining nor at any time thereafter intimated that they had applied with POSOCO. It is argued that Clause 40.1 of DoPT Handbook provides that Government servants who



have received scientific and technical training after commencement of service, at Government expense are required to execute a Bond, undertaking to repay the money in the event of their failure to serve the Government for a specified number of years after completing their training and therefore, Petitioners cannot seek transfer of their Bonds. Moreover, Clause 3(c) of DoPT O.M. dated 23.12.2013 provides that an employer is well within its right to withhold the application of a candidate from forwarding to another organisation if the said candidate has received some technical training at Government expense. In the present case, Petitioners were technically trained at Government expense after being selected to the post of Scientist 'B' and therefore, BIS is justified in accepting their resignations subject to the pre-condition of furnishing the Bond money.

11. It is argued that while accepting the technical resignations of the Petitioners, they were clearly informed that acceptance was conditional on payment of the Bond money and having availed the benefit of acceptance of their resignations, Petitioners cannot turn around and question the said pre-condition, which even otherwise is predicated on Clause 40.1 of DoPT Handbook and is valid.

12. Heard learned counsels for the parties and examined their contentions.

13. Indisputably, Petitioners applied for the post of Executive Trainee (Electrical) with POSOCO, a wholly owned Government of India Enterprise prior to their joining BIS. While the Petitioners were serving with BIS, they were offered appointment by POSOCO and in order to join the said organisation, they submitted their technical resignations, which were accepted with a pre-condition of depositing the Bond amounts, as noted above. Petitioners paid the Bond amounts to BIS, without prejudice to their



contentions and were relieved and joined POSOCO thereafter.

14. The short issue that arises for consideration before this Court is whether BIS was entitled to impose a pre-condition of payment of Bond amount for accepting the technical resignations of the Petitioners to join POSOCO. In my considered view, there is merit in the contentions raised by the Petitioners that it was not open to BIS to impose the pre-condition of deposit of Bond money for accepting the resignations and reliance has been correctly placed on Clauses 40.2.1 and 40.3.2 of DoPT Handbook, which are extracted hereunder for ready reference:

“40.2.1 The bond should be enforced against those Government servants only, who leave Government service in order to secure private employment. The terms of the bond may not be enforced in this case of Government servants, who leave Government service to, secure employment, under a State Government, a public sector undertaking, owned wholly or partly by the Central Government or by a State Government, or a quasi- Government organisation. In such cases, a fresh bond is to be taken from such Government servants to ensure that they served the new employer for the remaining period of the bond.

40.3.2 These instructions also apply to cases where and employee of the Central Government / a Central Public Enterprises / an autonomous body, wholly or substantially owned / financed / controlled by the Central Government has been selected for a post / service (other than private employment), for which he had applied before joining the department/organisation etc., with whom he has executed a bond.”

15. The aforesaid Clauses fall under Chapter 40 of DoPT Handbook which deals with Enforcement of Bonds in respect of Central Government and Public Enterprises employees, who leave service to secure employment elsewhere. Clause 40.1 provides that Government servants who have received scientific and technical training at Government expense are often required to execute a Bond undertaking to repay the money in the event of their failure to serve the Government for a specified number of years after



completion of their training. No doubt, this is the general rule followed across and there is no challenge to this either, however, BIS has completely glossed over Clause 40.2.1 which provides that the Bond should be enforced against those Government servants 'only' who leave Government service in order to secure private employment. It is further stipulated that terms of the Bond may not be enforced in case of Government servants who leave Government service to secure employment under a State Government, Public Sector Undertaking, owned wholly or partly by the Central Government or by a State Government or a quasi-Government organisation and in that event, the only caveat is that fresh Bond is to be taken to ensure that such Government servant serves the new employer for the remaining period of the Bond.

16. There is no dispute that POSOCO, now Grid-India, is a wholly owned Government of India Enterprise and that Petitioners applied with the said organisation prior to their joining BIS and therefore, by virtue of Clause 40.3.2 of DoPT Handbook, these instructions would apply to the Petitioners. From a plain reading of Clause 40.2.1, the inevitable conclusion is that the Bonds furnished by the Petitioners cannot be enforced against them by BIS as Petitioners had tendered their technical resignations to join a Government of India Enterprise and not any private employment. Significantly, there is no response to this contention of the Petitioners either in the counter-affidavit or during the course of hearing. Reliance on Clause 40.1 cannot aid BIS as the same is a general provision hedged by an exception in Clause 40.2.1, stipulating that in case of Government servants who do not leave the Government service to secure private employment, Bonds cannot be enforced.



17. Reliance by learned counsel for BIS on Clause 3(c) of DoPT O.M. dated 23.12.2013 is wholly misplaced. The O.M. lays down guidelines for forwarding applications of Government servants as direct recruits for posts within the Central Government, State Governments, Autonomous/Statutory Bodies, CPSEs, etc. It provides that in case a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding his application even if otherwise the application would have been forwarded. Clause 2 of the O.M. deals with interpretation of the term 'Public Interest' and Clause 3 lays down general principles for dealing with such applications and in that context, provides in sub-Clause (c) that applications of Government servants, who have been given some technical training at Government expense after commencement of service can be withheld and in that event, the Government servant cannot justifiably complain of hardship if he is not allowed to capitalise the special qualifications gained by seeking other better employment. It is not the case of BIS that Petitioners could not be spared from BIS without serious detriment to important work in hand which was affecting or impacting public interest. In fact, BIS accepting the resignations tendered by the Petitioners and the sole reason for not relieving the Petitioners was non-payment of the Bond amounts and therefore, this O.M. is inapplicable to the present case. Plea of learned counsel for BIS that Petitioners did not intimate about their applications for appointments with POSOCO, even if correct, cannot be a ground to enforce the Bonds, when BIS cannot do so by virtue of Clause 40.2.1.

18. It is pertinent to note at this stage that when the writ petitions were filed, Petitioners had sought the relief of transfer of the Bonds, however,



2024:DHC:8842



learned counsel for the Petitioners submits that the Bonds have expired with passage of time and cannot be transferred and therefore, the relief be modified to a direction to BIS to release the Bond money deposited with BIS at the time of relieving.

19. For all the aforesaid reasons, these writ petitions are allowed, quashing the communications dated 20.01.2022 and 02.02.2022, whereby the impugned decisions of BIS were communicated to the Petitioners as also quashing the decisions taken requiring the Petitioners to pay the amounts under the Service Bonds as a pre-condition for accepting their resignations, as being arbitrary and violative of Clauses 40.2.1 and 40.3.2 of the DoPT Handbook. It is held that BIS is not entitled to enforce the Service Bonds furnished by the Petitioners *albeit* it is made clear that Petitioners will be required to furnish fresh Bonds with their new employer. Since the Bonds have expired, direction is issued to BIS to release the money deposited by the Petitioners under the Service Bonds as also the withheld salaries by way of adjustments, within a period of eight weeks from the date of receipt of copy of this judgment.

20. Writ petitions stand disposed of in the aforesaid terms.

JYOTI SINGH, J

OCTOBER 25, 2024/jg