



2025:DHC:2741-DB



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

+ **W.P.(C) 3369/2020**

DINESH YADAV

.....Petitioner

Through: **Mr. Ankur Chhibber, Adv.**

versus

UNION OF INDIA & OTHERS

.....Respondents

Through: **Mr. Bhagvan Swarup Shukla,**
CGSC with Mr. Sarvan Kumar and Mr.
Satyam Singh, Advs. for UOI
Mr. Vikrant N. Goyal and Mr. Nitin, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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20.03.2025

C. HARI SHANKAR, J.

1. The petitioner joined as Assistant Commandant in the Central Reserve Police Force¹ on 12 October 2011. He was posted at the Central Office of the CRPF at New Delhi on 1 June 2016 and has been continuing there since.

2. *Vide* Signal dated 1 August 2018, the petitioner was transferred to the 90th Battalion at Anantnag. The petitioner represented against the transfer, citing his own, as well as his family's health and other

¹ CRPF



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issues which did not allow him to accept the posting. He subsequently approached this Court by means of WP (C) 11195/2018, challenging the order of transfer. The writ petition was disposed of, by this Court, *vide* order dated 16 October 2018, directing the respondents to take a decision on the petitioner's representation and reserving liberty with the petitioner to represent against the decision, if aggrieved. The respondents rejected the petitioner's representation *vide* order dated 5 November 2018. Ultimately, the petitioner reported at Anantnag on 28 January 2019.

3. On 4 February 2019, the petitioner had applied for resignation from the post of Assistant Commandant, *vide* the following communication:

"To,

The President of India
Govt of India
Rashtrapati Bhawan
New Delhi.

(Through Proper Channel)

No.G-II-01/2019 DY

Dated: 04 Feb, 2019

Sub: Request for acceptance of Resignation from the service.

Respected Sir,

With due regards this is to submit that I am Dinesh Yadav, Assistant Commandant IRLA No.8866 presently posted in 90 Bn CRPF joined CRPF on 12 Oct 2011 as a Directly appointed Gazetted Officer.

Sir, due to my personal and family reasons I am finding it very difficult to continue to perform my duties in CRPF smoothly. So I am submitting my resignation from the service.



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Sir, I have taken this decision very thoroughly and after consulting with my family.

I therefore, request to the honorable President of India to kindly accept my discharge from 30 April, 2019.

Thanking you,

Dated: 04 Feb 2019

Place: Uranhall (J&K)

Yours faithfully,

Sd/-

Dinesh Yadav

Asstt. Comdt

90 Bn CRPF"

4. Mr. Chhibber submitted that the application for withdrawal was recommended by the Ministry of Home Affairs and forwarded to the DG, CRPF for further action. Mr. Chhibber sought to characterise this as an acceptance of the petitioner's request for withdrawal of resignation. Mr. Chhibber submits that the aforesaid application was accepted by the respondent w.e.f. 31 May 2019. He has taken us through certain notings in that regard which, according to him, evince a tentative acceptance of the petitioner's application as being meritorious.

5. We are not inclined to enter into that aspect as it is a well settled position that file notings do not confer any right on a citizen as they merely represent a tentative opinion taken on the file which is always open to change. It is only the final order which is communicated to the citizen which can constitute the basis of a claim in law. A recent decision, which reiterates this position, is to be found in *Yadaiah v*



*State of Telangana*², from which the following paragraphs merit reproduction in this context:

“61. Coming now to the issue of the date of assignment, we agree entirely with the respondent's stance that the actual assignment took place only at the time of issuance of temporary pattas and not at any point prior thereto. On perusal of the documents brought on record, which are merely collection of inter-departmental correspondence before the issuance of temporary pattas, we find that the assignment process was still underway. The appellant's reliance on the document dated 28-10-1953 is unfounded as the same only communicated the sanction by the executive and nothing else. In fact, the letter dated 4-6-1960 brings out the fact that the area of the sanctioned land was to be reduced to 142 acres and 39 guntas and then only was to be assigned. In this regard, this Court has repeatedly held and recently reiterated again in *Mahadeo v Sovan Devi*³ that:

“15. *It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right.* This Court examined the said question in a judgment reported as *Omkar Sinha v Sahadat Khan*⁴. Reliance was placed on *Bachhittar Singh v State of Punjab*⁵, to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and second, it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up, the State Government cannot, in our opinion, be regarded as bound by what was stated in the file.”

(Emphasis supplied)

62. Similarly, the decision of this Court in *Bachhittar Singh v State of Punjab* which is cited in the above reproduced paragraph notes:

“9. The question, therefore, is whether he did in fact

² (2023) 10 SCC 755

³ (2023) 10 SCC 807

⁴ (2022) 12 SCC 228

⁵ AIR 1963 SC 395



make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score out his remarks or minutes on the file and write fresh ones.” ”

6. On 18 June 2019, the petitioner applied for withdrawal of resignation.

7. The position remains that, till date, there is no formal decision on the petitioner's application dated 18 June 2019, seeking to withdraw his resignation tendered on 4 February 2019.

8. One of the issues arose before this Court during the course of these proceedings was whether Rule 26(4) of the CCS (Pension) Rules, 1972 would apply to the CRPF. We are not inclined to enter into this arena either as, in the counter-affidavit filed by the CRPF, it is admitted that the CRPF was processing applications for withdrawal of resignation under Rule 26(4).

9. We, therefore, proceed on the premise that Rule 26(4) was applicable to the petitioner at the relevant point of time.

10. One of the submissions advanced by Mr. Chhibber was that the respondents could be directed to take a decision on the petitioner's application in terms of Rule 26(4) of the CCS (Pension) Rules. The



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suggestion commends itself to acceptance.

11. Accordingly, this writ petition is disposed of with a direction to the respondent to take a decision on the petitioner's application dated 18 June 2019, seeking withdrawal of the resignation tendered by him on 4 February 2019. The decision would be taken dispassionately and in accordance with the provisions of Rule 26(4) of the CCS (Pension) Rules.

12. Needless to say, we expect the authority to approach the issue in an empathetic fashion, keeping in mind the assertions contained in the petitioner's representation for withdrawal of resignation.

13. But, for this caveat, the discretion would vest with the authority to decide the writ petition one way or the other.

14. Needless to say, should the petitioner continue to remain aggrieved, the right of the petitioner in that regard would remain reserved.

15. As the matter is of considerable vintage, we direct the respondent to take a final decision on the petitioner's application dated 18 June 2019 and communicate it to the petitioner positively within a period of four weeks from today.



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16. This writ petition is disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MARCH 20, 2025

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Click here to check corrigendum, if any