



2025:DHC:2743-DB



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

+ **W.P.(C) 3904/2020**

NEERAJ KUMAR UTTAMPetitioner

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

versus

UNION OF INDIA & ORS.Respondents

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

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT(ORAL)

20.03.2025

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1. The petitioner joined as Assistant Commandant in the Central Reserve Police Force¹ on 15 May 2010. He was posted at 93 Bn Lucknow, Uttar Pradesh and has been continuing there since.

2. On 27 November 2017, the petitioner applied for resignation from the post of Assistant Commandant, on account of certain family issues, *vide* the following communication:

“To,

The Honourable President of India
Rashtrapati bhawan
New Delhi-110004

¹ CRPF



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(THROUGH PROPER CHANNEL)
SUB- RESIGNATION LETTER

Most respectfully it is submitted that I Neeraj kumar Uttam assistant commandant IRLA No 8404, CRPF is posted in 93 Bn. CRPF Lucknow (UP). I joined crpf as a direct entry officer on 15/05/2010 as assistant commandant.

I am so much in trouble due to unavoidable family problem I tried my best to correct it but it is not possible till than I am in force hence I can not continue with this service any more so I want to resign from my service before 01/03/18.

Hence you are humbly requested to please accept my resignation before 01/03/18.

thanking you in-anticipation

Dated- 27/11/17

Sd/-
Neeraj Kumar Uttam
IRLA NO 8404
ASSISTANT COMMANDANT
93 Bn. CRPF Lucknow (U.P)''

3. Mr. Chhibber, learned Counsel for the petitioner, submits that the aforesaid application was accepted by the respondent w.e.f. 12 March 2018. 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.

4. 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*

² (2023) 10 SCC 755

³ (2023) 10 SCC 807

⁴ (2022) 12 SCC 228

⁵ AIR 1963 SC 395



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Singh v State of Punjab which is cited in the above reproduced paragraph notes:

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

5. On 8 May 2018, the petitioner applied for withdrawal of resignation.

6. No decision has been taken on the application till date.

7. One of the issues arose before this Court during the course of deliberations 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).

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

9. Mr Chhibber suggests that the respondents could be directed to



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take a decision on the petitioner's application in terms of Rule 26(4) of the CCS (Pension) Rules. The suggestion commends itself to acceptance.

10. Accordingly, this writ petition is disposed of with a direction to the respondent to take a decision on the petitioner's application dated 8 May 2018, seeking withdrawal of the resignation tendered by him on 27 November 2017. The decision would be taken dispassionately and in accordance with the provisions of Rule 26(4) of the CCS (Pension) Rules.

11. 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.

12. But for this caveat, the discretion would vest with the authority to decide the application one way or the other.

13. Needless to say, should the petitioner continue to remain aggrieved, all remedies available to the petitioner in law would remain reserved.

14. As the matter is of considerable vintage, we direct the respondent to take a final decision on the petitioner's application dated 8 May 2018 and communicate it to the petitioner positively within a period of four weeks from today.



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15. 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