



2025:DHC:4074-DB



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

Date of decision: 20.05.2025

+ W.P.(C) 6821/2025
UNION OF INDIA & ORS.Petitioners

Through: Ms.Avshreya Pratap Singh
Rudy, Sr.Panel Counsel with
Ms.Usha Jamnal, Ms.Harishita
Chaturvedi, Advs.

versus

BIJENDRA KUMARRespondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 30950/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 6821/2025 & CM APPL. 30949/2025

2. This petition has been filed challenging the Order dated 08.04.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.2373/2021 titled ***Bijendra Kumar v. Union of India & Ors.***, allowing the said O.A. filed by the respondent herein with the following directions:



“23. In view of what has been outlined above, the present OA is allowed and the impugned communication dated 19.01.2021 bearing No. G1-C/Counting/165/2018/V, is quashed and set aside. The applicant is deemed to have submitted technical resignation before joining as Junior Works Manager in Ordinance Factory Board and accordingly, entitled to the benefit of the service he has rendered in the Indian Air Force in terms of the provisions of the CCS (Pension) Rules and all other purposes in accordance with relevant rules.”

3. To give a brief background to this petition, the respondent was enrolled in the Indian Air Force as a Combatant Member on 20.06.2001. He applied for the post of Junior Works Manager (Mechanical) in the Ordinance Factory Board Organization ('OFB') through the proper service channel and with due permission of the competent authority to the Union Public Service Commission as per the existing provisions.
4. On the said application, the respondent was issued a 'No Objection Certificate' ('NOC') by the Directorate of Personnel, Air Headquarters on 29.09.2011.
5. The respondent was declared successful in the said selection process and in order to join the services at the OFB, he had to resign from the Indian Air Force. He applied for the same and accordingly, a discharge certificate dated 08.08.2013 was issued by the Indian Air Force, discharging him from service.
6. The respondent joined OFB Kolkata on 09.09.2013, and applied to the OFB for counting the military services rendered by him in



the Indian Air Force towards his current assignment as qualifying service. The said request was forwarded to the Directorate of Air Veterans for necessary guidance, who replied that the same was possible. Thereafter, after getting necessary verification of service rendered by the respondent in the Indian Air Force, OFB Kolkata submitted the case of the respondent to the Principal Controller of Defence Accounts (Pensions) ('PCDA(P)') Allahabad on 07.09.2017, however, the PCDA(P) rejected the claim of the respondent *vide* letter dated 19.01.2021, by observing that the respondent had been discharged from service "at his own request before fulfilling the conditions of enrolment", therefore, the same cannot be termed as 'technical resignation'. The representations of the respondent were also rejected on 01.03.2021 and 19.07.2021.

7. Aggrieved by the above, the respondent filed the abovementioned O.A. before the learned Tribunal.
8. The learned Tribunal, placing reliance on the DOP&T OM dated 17.08.2016, held that though the discharge certificate states that the respondent has been discharged at his own request, the same has to be treated as a 'technical resignation' because in case of resignation, it is the concerned employee who, out of willingness, voluntarily chooses to seek relieving from one organization to join another and, therefore, the case of the respondent would be governed by the provisions of the CCS (Pensions) Rules as also the relevant OM of the DOP&T.



9. It was also observed that the respondent had applied through the proper channel after obtaining an NOC from his parent organization and, therefore, for all intents and purposes, it was a case of ‘technical resignation’, entitling the respondent to the benefits prayed for in accordance with the relevant rules.
10. Aggrieved by the above order, the petitioners have filed the present petition.
11. The learned counsel for the petitioners submits that in the present case, the respondent never submitted a technical resignation for the purpose of joining the OFB. She submits that the respondent intended to apply for a discharge, which was accepted and in pursuance thereof, a discharge certificate was issued on 08.08.2013. She submits that therefore, the OM dated 17.08.2016 would not be applicable to the facts of the present case.
12. On the other hand, the respondent, who is present in person, reiterates that he had applied for the post of Junior Works Manager (Mechanical) in the OFB through the proper channel and on being issued an NOC for the same by the Indian Air Force. It was upon his selection that he applied for being discharged from service, which has to be treated as a ‘technical resignation’ of the respondent from the service of the Indian Air Force. Further, placing reliance on the DOP&T OM dated 17.08.2016, he submits that the actual use of the terms like ‘technical resignation’ is not essential for the purposes of the said OM.



13. We have considered the submissions made by the learned counsel for the petitioners and the respondent, who is present in person.
14. The DOP&T OM dated 17.08.2016 clearly states that in such a situation, where an employee on being selected to some other post is required to resign from the previous post for administrative reasons, the same is to be treated as a 'technical resignation' even if the government servant has not mentioned the word 'technical' while submitting his resignation. The said OM further states that the benefit of past service, if otherwise admissible under the Rules, may be given in such cases. The OM further states that it is only where the competent authority has not allowed the Government servant to forward the application through proper channel, that the resignation would not be treated as a 'technical resignation' and the benefit of the past service will not be admissible to such Government servant.
15. In the facts of the present case, the respondent had applied for the post of Junior Works Manager (Mechanical) with the OFB through the proper channel and after obtaining an NOC from the competent authority of the petitioners. Upon his selection, he had applied for being discharged from the services of the Indian Air Force. Therefore, the discharge falls within the ambit and scope of the DOP&T OM dated 17.08.2016 and the resignation of the respondent had to be treated as a 'technical resignation', entitling him to the benefits of his past service with the Indian Air Force,



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if the same is otherwise admissible under the Rules.

16. We, therefore, find no infirmity in the Impugned Order passed by the learned Tribunal.
17. The petition alongwith the pending application is accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 20, 2025
RN/SJ

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