

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 179 of 2023.

MITHUN CHAKRABORTY –Vs- THE STATE OF WEST BENGAL & ORS

Serial No. and
Date of order

4
21.6.2023

For the Applicant : Mrs. S. Mitra,
Advocate.

For the State respondent Nos. 2 to 6 : Ms. R. Sarkar,
Mr. S. Debroy,
Mrs. A. Bhattacharjee,
Departmental representatives,
Land & Land Reforms Department.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsel for the contesting parties, the case is taken up for consideration sitting singly.

An error detected in the cause title where the respondent no. 1 has been recorded as Additional Secretary, Department of Personnel and Administrative Reforms be corrected as Secretary, Land and Land Reforms Department during the course of the day by the applicant.

In this application, the prayer is for directing the respondent to consider his representation dated 12.01.2022 and 01.03.2023 and allow him to rejoin the Group 'D' post. In brief, the applicant had submitted a resignation letter on 19.03.2021 which was accepted and communicated to the applicant on 08.10.2021. Thereafter, the applicant submits another application before the respondent authorities praying for rejoining his duties.

Submission of Mr. S. Deb Roy, Departmental representative is that this application is not admissible since the application for resignation was accepted and communicated to him before another prayer is made by the applicant for rejoining his

post.

In support of his submission, a copy of rule 34A of West Bengal Service Rules is shown, the relevant portion of this rule is as under :-

Rule 34a Note :- “.....Regarding the question of taking back in service a Government employee who resigned and subsequently withdrew such resignation letter the following principles shall be followed :-

- (i) *A person continues in service if he withdraws his resignation letter before the date from which the resignation is to take effect. The resignation becomes irrevocable and operative after the aforesaid date of resignation. So the question of withdrawal of the resignation letter by the Government employee and taking back such employee in service does not arise. After the resignation has become irrevocable and effective, it cannot be cancelled...”.*

Further, in Civil Appeal No. 2429 of 1966, the relevant portion of which is as under :-

“On the plain terms of the letters, the resignation was to become effective as soon as it was accepted by the appointing authority. No rule has been framed under Art. 309 of the Constitution which enacts that for an order accepting the resignation to be effective, it must be communicated to +, he person submitting his resignation...”.

From the submissions and observations, it is clear to this Tribunal that a resignation letter once accepted by the employer cannot be cancelled or revoked because after the date of such correspondences, no matter even if the resigned employee submits in writing desiring to withdraw his resignation. In this case, it is very clear that the resignation letter was accepted by the respondent and the acceptance letter was formally issued which was very much in the knowledge of the resigned employee. Another letter to the respondent thereafter requesting for

ORDER SHEET

Form No.

MITHUN CHAKRABORTY.

Case No. OA 179 of 2023.

-Vs-
THE STATE OF WEST BENGAL & ORS.

cancellation of the resignation letter is not his right.

Moreover, as illustrated in the above relevant rule and Apex Court Judgement, once a resignation has been accepted thereafter it cannot be cancelled even if the resigned employee so wishes. Therefore, finding no merit in this application, this application is disposed of without passing any order.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.