

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8223/2006

(From the judgement and order dated 30/07/2004 in LPA No. 719/2004 and order dated 8.12.2004 in R.P.No.429 of 2004 of The HIGH COURT OF DELHI AT N. DELHI)

SHRI RAM Petitioner(s)

VERSUS

M.C.D. & ANR. Respondent(s)

(With office report)
(for final disposal)

Date: 06/12/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. G.D. Gupta, Sr.Adv.
Mr. Shiva Kumar Sinha,Adv.

For Respondent(s)

Mr. Sanjiv Sen, Adv.
Mr. Praveen Swarup,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.
The appeal is allowed in terms of the signed order.

(Sukhbir Paul Kaur)
Court Master

(Vijay Dhawan)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5681 OF 2007
(Arising out of S.L.P.(C) No.8223 of 2006)

SHRI RAM Appellant(s)

Versus

M.C.D. & ANR. Respondent(s)

ORDER

We have heard learned counsel for the parties.

Leave granted.

This appeal by special leave is directed against the judgment and order dated 30th July, 2004 passed by the Division Bench of the High Court of Delhi in L.P.A. No.719 of 2004 and order dated 8th December, 2004 passed by the High Court of Delhi in Review Petition No.429 of 2004 whereby the High Court affirmed the order dated 26th February, 2004 passed by the learned Single Judge in CWP No.7874 of 2001.

The facts of this case are that the appellant was working as Junior Engineer in the M.C.D. He submitted his letter of resignation on 7th June, 2000 stating that he want to resign with effect from 11th July, 2000. His resignation was processed and accepted by Order dated 10th July, 2000 and he was asked to handover the charge by Office Order dated 11th July, 2000. On 10th July, 2000 the

-2-

appellant withdrew his resignation and submitted the withdrawal letter to the Director through the Superintending Engineer of the Circle. Though the Superintending Engineer was not the competent authority in fact the letter of resignation was addressed to the Director. Hence the submission of learned counsel for the respondent that the withdrawal letter was not given to the competent authority (the Director) is only a hyper-technical view, which does not appeal to us.

The letter of withdrawal of resignation was not accepted and the appellant was relieved from service in pursuance of the communication dated 10th July, 2000 whereby his resignation was accepted and he was relieved from 11th July, 2000. Hence he filed the Writ Petition before the High Court. The learned Single Judge of the High Court dismissed the Writ Petition on the ground that his resignation had already been accepted by the competent authority on 7th July, 2000 and it was communicated to him by letter dated 10th July, 2000. Hence it could not be withdrawn/revoked.

Aggrieved against this order, the appellant moved the Division Bench of the High Court. The Division Bench of the High

Court affirmed the order of the learned Single Judge. Hence the present appeal.

-3-

We have heard learned counsel for the parties and also perused the record.

Learned counsel for the appellant submitted that the resignation was to come into effect from 11 th July, 2000 but the appellant before that resignation became effective moved the authorities on 10th July, 2000 communicating that he wishes to withdraw his resignation. Therefore, learned counsel submitted that before the resignation could become effective with effect from 11th July, 2000 the appellant revoked the same on 10th July, 2000 and as such the appellant should be deemed to be in service. In support thereof, learned counsel for the appellant invited our attention to the decisions of this Court reported in 1987 (Supp) SCC 228 titled Balram Gupta versus Union of India and Anr. and 1998 (9) SCC 559 titled J.N. Srivastava versus Union of India and Anr. In both these cases almost identical situation arose and in that context their Lordships have taken the view that the resignation was validly revoked because the revocation was done before the resignation became effective. Both these decisions were cited before the Division Bench of the High Court but the Division Bench of the High Court did not accept the plea simply saying that the cases are not identical to this case. The view taken by the Division Bench of the High Court cannot be accepted.

-4-

Once the resignation is revoked before it could become effective then it is a valid revocation and cannot be implemented. It is true that in the present case the resignation was accepted on 7th July, 2000 but it was to become effective from 11 th July, 2000 but before 11th July, 2000 the incumbent had already revoked the resignation on 10th July, 2000. Hence it was a valid revocation.

Therefore, in the facts of this case, the view taken by both the Courts below cannot be sustained. Consequently, the appeal is allowed. The impugned judgment of the Division Bench of the High Court as well as of the learned Single Judge is set aside. The

appellant is deemed to be in service. However, the appellant will not be entitled to any backwages because he himself is responsible for creating such a situation. The appellant will not be entitled to any salary for this period. However, he will be reinstated forthwith and he may be given all the benefits including continuity of service, increments and other benefits which are admissible to him in accordance with law from the date of his joining.

.....J.
(A.K.MATHUR)

.....J.
(MARKANDEY KATJU)

New Delhi,
December 6, 2007.