

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 1141/2023

Reserved on 28.04.2025
Pronounced on 09.05.2025

Bilal Ahmad Yatoo

...Petitioner(s)/Appellant(s)

Through: Mr. Aswad Attar, Adv.

Vs.

Union Territory of JK & Ors.

...Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG with Ms. Maha Majeed, AC

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGMENT

Sanjeev Kumar, J

1. This petition by the petitioner filed under Article 226 of the Constitution of India is directed against an order and judgment dated 24nd February 2023 passed in OA No. 693/2022 titled *Bilal Ahmad Yatoo vs Union Territory of JK & Ors.* passed by the Central Administrative Tribunal, Srinagar Bench [“the Tribunal”] whereby the tribunal has dismissed the OA of the petitioner being devoid of any merit.
2. Before we advert to the grounds of challenge, we deem it appropriate to narrate few facts which are germane to the disposal of this petition.
3. The petitioner was selected as Constable in the J&K Police vide PHQ Order No. 1935 of 2016 dated 25th June 2016 and vide subsequent order bearing No. 598 of 2016 dated 15th November 2016, the petitioner was allotted No. 859/XII. He was put on basic recruitment training course, Session 2016-2017 held at STC Talwara. It has come on record that the petitioner absented twice during his training for which he was also awarded censure as punishment. Be that as it may, the petitioner completed his BRTC, but immediately thereafter, instead of joining his active duties, he applied for 40 days earned

leave. The competent authority, however, sanctioned only 20 days earned leave in his favour. The petitioner had barely performed his active duties for two months that he applied for voluntary resignation on 11th July 2018. The resignation letter was supported by an affidavit in which the petitioner has cited some domestic problems. The resignation was accepted by the Commandant on same day i.e., 11th July 2018 vide Order No. 601 of 2018.

4. Feeling aggrieved, the petitioner approached the tribunal by way of OA No. 237/2022 which was disposed of on 7th April 2022 with a direction to the respondents to consider the averments made in the OA as a representation of the petitioner and dispose of the same by passing a reasoned and speaking order within a period of four weeks.
5. In compliance with the aforesaid order of the tribunal, the respondents considered the representation of the petitioner and rejected the same vide its order dated 12th April 2021. It is this order of the respondents which was called in question by the petitioner in OA No. 693/2022. The OA was contested by the respondents by filing their counter affidavit. The tribunal considered the rival contentions in light of the material on record and came to the conclusion that the order passed by the respondents rejecting the representation of the petitioner was perfectly legal and, therefore, did not call for any interference. The tribunal after relying upon the judgment of the Hon'ble Supreme Court in the case of **Union of India & Anr. vs. Wing Commander T. Parthasarathy, JT 2000 (Suppl) 2 SC 490**, dismissed the OA of the petitioner. This is how the petitioner is before us seeking to challenge the judgment of the tribunal as also the order of the Commandant accepting the resignation of the petitioner.
6. The impugned judgment is assailed by the petitioner primarily on the following grounds:
 1. That the tribunal has failed to appreciate that the resignation which was submitted by the petitioner to his Commandant on 11th July 2018 was not voluntary and was under coercion from the militants of a banned militant organization.

2. That the tribunal also did not appreciate that in terms of Section 10 of the Police Act, 1983, the resignation submitted by the petitioner was to be treated as “intention to resign” and given effect to only after two months of its submission.
7. Having heard learned counsel for the parties and perused the entire record, we are of the considered opinion that the judgment passed by the tribunal is perfectly legal and does not call for any interference by us in exercise of our extraordinary jurisdiction vested under Article 226 of the Constitution of India.
8. Indisputably, the resignation letter submitted by petitioner was supported by an affidavit in which the petitioner had clearly cited domestic problems as reason for such resignation. The story projected by the petitioner that he and his family were under threat from the militants to resign is an afterthought and concocted after the acceptance of the resignation. We could not find any document, communication or representation on record made by the petitioner prior to submission of the resignation which would indicate that the petitioner had informed his superiors about the threat which he and his family members were facing from the militants. Otherwise also, the career of the petitioner has not remained satisfactory. The petitioner being enrolled as Constable in the J&K Police had the audacity to remain absent twice during his training at STC Talwara. While he was on training, he was also awarded the minor punishment of ‘censure’. As was expected, the petitioner ought to have joined his active duties after completion of his training, however, the petitioner applied for earned leave and thereafter performed his duties only for a period of two months. It seems that the petitioner was never interested to serve as Constable in the J&K Police and, therefore, within two months of his being on active duty, he submitted his resignation on 11th July 2018. The resignation was accepted by the competent authority on the same day. We, therefore, are not inclined to accept the submissions of learned counsel for the petitioner that the resignation which the petitioner submitted on 11th July 2018 was not voluntary, but one under coercion from militants.

9. Section 10 of the Police Act, 1983 which is strongly relied upon by learned counsel for the petitioner reads as under:-

10. Police officer not to resign without leave or two months' notice.- No Police Officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the Superintendent or by some other officer authorized to grant such permission or without the leave of the Superintendent, to resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign."

10. From plain reading of Section 10, it is evident that a police officer is not permitted to resign without leave of Superintendent unless he has given a prior notice of not less than two months of his intention to resign. However, nothing prevents the Superintendent to accept resignation forthwith.

11. In the instant case, there should be no dispute with regard to the fact that the petitioner, who had submitted his voluntary resignation on 11th July 2018, was permitted to resign by the Commandant by accepting his resignation on the same day. It is thus beyond any shadow of doubt that the petitioner had resigned from his post with the leave of the Commandant and, therefore, there was no requirement of treating his resignation as his 'intention to resign' and wait for two months period to expire before its acceptance.

12. Viewed from any angle, we find no merit in this petition, same is accordingly **dismissed**.

(VINOD CHATTERJI KOUL)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

09.05.2025

Altaf

Whether approved for reporting? Yes