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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1954/2002

New Delhi, this 4th day of December, 2002

Hon'ble Shri M.P. Singh, Member(A)

S.D. Narang
H.No.555/21, Jagdish Colony
Rohtak-124001 .. Applicant
(Applicant in person)

versus

1. Director General of Meteorology
Mausam Bhawan
Lodi Road, New Delhi
2. J.S. Arya
Deputy Director General of Meteorology
Mausam Bhawan
Lodi Road, New Delhi .. Respondents

(Shri M.M. Sudan, Advocate)

ORDER(oral)

1. By the present OA, applicant has challenged the order dated 5th March, 2002 whereby he has been informed that his request for voluntary retirement with effect from 5.3.2002(AN) under Rule 48A of CCS(Pension) rules, 1972 has been accepted by the competent authority. According to the applicant, he had submitted application for voluntary retirement under various threats of disciplinary action but he withdrew the said application on 28.2.2002. Thereafter the impugned order dated 5.3.2002 was issued to him.

2. Respondents have opposed the OA and have stated in their reply that the applicant submitted application dated 23.1.2002 for voluntary retirement on his own volition w.e.f. 1.2.2002 under Rule 48A(Pension) Rule with a request to waive off notice period. In view of the fact that two disciplinary cases were pending against him, his case required the approval of Minister of

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Science & Technology. As such Government approval was obtained and he was finally relieved with effect from 5.3.2002 only. He submitted no such application for consideration of the competent authority before the actual acceptance of his voluntary retirement. He refused to receive the order dated 5.3.2002 when the same was served on him. On 6.3.2002 applicant came at 1330 hrs. and marked his presence in the attendance register and left the office after submitting application dated 6.3.2002 in the establishment section. The Hindi Sectional incharge cancelled the marked attendance as he stood relieved on 5.3.2002. Applicant, however, again came to office on 7.3.2002 and called the police to create a scene and later on demanded the letter of acceptance of voluntary retirement and the same was served to him. However, his request dated 28.2.2002 was received in the office of DG of Meteorology on 7.3.2002 and placed before the DDG of Meteorology(A&S)/competent authority on 8.3.2002 but was rejected with the following observations:

"He has already been retired with effect from 5.3.2002. As such it cannot be withdrawn now, may not be agreed to"

In view of this position, the OA has no merit and be dismissed.

3. I have heard the applicant who appeared in person and Shri M.M. Sudan, learned counsel for respondents and perused the records.

4. I find from the material available on record that on the one hand applicant himself has stated that he had submitted application for voluntary retirement under

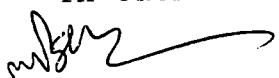


various threats of disciplinary action but he withdrew the same vide his application dated 28.2.2002. At the same he has also stated that his request for voluntary retirement is absolutely false and fabricated because there is no application of his which contains his request for voluntary retirement with effect from 5.3.2002. On the other hand, learned counsel for respondents has drawn my attention to letter dated 23.1.2002 duly signed by the applicant seeking voluntary retirement. He has specifically stated in this letter that as under:

"As on date I have completed more than 20 years of Government service. Therefore I request your good selves to permit me to retire voluntarily from Govt. service with effect from 1st Feb. 2002(FN) and request further to waive off my notice period as per Rule 48A(3-A). I shall not apply for commutation of a part of my pension before the expiry of period notice of three months".

5. The learned counsel for respondents also drew my attention to letter dated 28.2.2002 from the applicant seeking withdrawal of voluntary retirement, which was received in the office of respondents on 8.3.2002, i.e. after the acceptance of his retirement. The competent authority is not bound to accept his request to withdraw it, since it has already been accepted and became effective by issue of order dated 5.3.2002.

6. The learned counsel further mentioned that the applicant has not come with clean hand inasmuch as he had camouflaged the truth as he had remained unauthorisedly absent for about more than 580 days which period was treated as dies non. He was charge-sheeted in different cases for his unauthorised absence for several months and due process as laid down in CCS(CCA) Rules was followed in each case. That apart, two disciplinary cases pending



against him were dropped by taking a lenient view. When he had sought voluntary retirement it was accepted in public interest after obtaining Government approval for the same. Therefore, the applicant cannot be allowed at this stage to take the plea that he never submitted any request for voluntary retirement or that he gave his request for withdrawal of the same much before the impugned order dated 5.3.2002. I find force in the contention of respondents' counsel and I have no reason not to believe his submissions.

7. I am unable to accept the contention of the applicant that the so-called request available on file was not made by him and it is a fabricated/forged one. It is a settled legal position that this Tribunal is not expected to make rowing enquiry in such matters. That apart, despite my repeatedly asking him, the applicant has not been able to convince me under what rule he can be allowed to withdraw his request for voluntary retirement after the same had been accepted and he stands retired from service.

8. In view of what has been discussed above, I am of the considered opinion that the present OA fails on merit and deserves to be dismissed. I do so accordingly. No costs.


(M.P. Singh)
Member (A)

/gtv/