

Central Administrative Tribunal, Principal Bench

Original Application No. 630 of 2002

New Delhi, this the 8th day of March, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Somprakash Bhatia,
Son of late Lala Sant Ram Bhatia,
78, Kiran Vihar,
Delhi-110092.

- Applicant

(By Advocate: Shri Vijay Kumar)

Versus

1. Union of India
through the Secretary
Ministry of Defence
South Block, New Delhi

2. The Engineer-in-Chief
Army Headquarters
New Delhi-11

3. The Chief Engineer,
Western Command, Chandi Mandir,
Delhi Zone, Delhi Cantt.
Delhi

4. C.W.E. (Project)
Hissar Cantt.,
Hissar

5. G.E. (Project), Military Station
Hissar Cantt., Hissar

- Respondents

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Disciplinary proceedings were initiated against the applicant on a charge of unauthorised absence from duty. The disciplinary authority by his order of 15.7.88, has accepted the findings of the enquiry officer holding him guilty and has proceeded to impose a penalty of removal from service. Aforesaid order of the disciplinary authority was carried by the applicant in appeal. Appellate authority, by an order passed on 22.6.95, has affirmed the order of the disciplinary authority and has dismissed the appeal. Aforesaid order of the appellate

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authority has been belatedly carried by the applicant by filing a revision application of 14.2.2000. According to the applicant, no orders on the revision application have so far been passed.

2. Shri Vijay Kumar, the learned Advocate appearing in support of the OA has first contended that applicant had by an application of 20.3.83 at Annexure 'A', applied for voluntary retirement. According to the learned Advocate, since no orders thereon had been issued either accepting or refusing to grant voluntary retirement, applicant would be deemed to have voluntarily retired at the expiry of 90 days from the date of the notice. Since applicant stood voluntarily retired w.e.f. 20.6.83, the chargesheet which was issued to him on 2.1.86, was not legally tenable.

3. We have perused the notice of voluntary retirement which according to the learned counsel has been tendered by the applicant in terms of Rule 48-A of the CCS (Pension) Rules. Aforesaid rule permits a Govt. servant who has completed 20 years qualifying service, to give notice of not less than three months to the appointing authority for voluntary retirement. As far as the applicant is concerned, he has not put in 20 years qualifying service with the respondents. He accordingly is not even entitled to give the said notice of voluntary retirement. Aforesaid provision requires a notice of not less than three months. As far as the present application is concerned, applicant has sought retirement with

W.F.

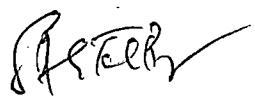
immediate effect. The notice, in the circumstances, is not a valid notice under Rule 48-A. Moreover, applicant has placed several conditions in his notice of voluntary retirement. He has sought that his service in the P.W.D. from May, 1958 to 12.3.1965 should be considered towards his pension. His pay and allowances for 30.12.1980 be paid to him and further leave from 7.7.1982 on medical grounds upto date may be regularised. He should be allowed all benefits i.e. pension, gratuity under the new pension rules. He may also be paid his GP Fund credit lying in his account.

4. In our view, aforesaid conditions which are appended to the notice of voluntary retirement are wholly untenable. Applicant, in the circumstances, cannot claim that he stood retired from service on the completion of 90 days as is urged by the learned Advocate.

5. Shri Vijay Kumar has next contended that the penalty of compulsory retirement is highly disproportionate to the misconduct of unauthorised absence alleged against the applicant. In our view, aforesaid contention cannot be countenanced as ^{it} has been concurrently found that applicant ~~had~~ absented himself unauthorisedly. This is one of the cases where applicant can be termed as having abandoned the services. The measure of penalty is a province which is entirely that of the disciplinary authorities. The same cannot be lightly interfered with by the Tribunal. Aforesaid contention, in the circumstances, is also rejected. No further ground has been urged in support of

Vijay Kumar

the OA. Present OA, in the circumstances, we find is devoid of merit. The same is accordingly dismissed in limine.



(S.A.T. Rizvi)
Member (A)

/dkm/



(Ashok Agarwal)
Chairman