

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.291/2002

New Delhi, this the 17th day of July, 2002

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

Ataur-Rehman
D-190-A, Abul Fazal Enclave
Okhla, New Delhi-25. Applicant

(By Shri Shahid Azad, Advocate)

versus

1. Secretary
Ministry of Power
Shram Shakti Bhavan
New Delhi
2. Director General
National Power Training Institute
Sector 33, Faridabad, Haryana
3. Executive Director, Northern Region
NPTI, Badarpur, New Delhi
4. Director (Fin. & Admn.)
NPTI, S-33, Faridabad, Haryana . . . Respondents

(Shri K.L. Bhandula, Advocate)

ORDER(oral)

Shri M.P. Singh, Member(A)

By the present OA, applicant has prayed for direction to quash and set aside the order dated 14.1.2002 by which he was retired from service of National Power Training Institute (NPTI, for short) w.e.f. 16.1.2002 in terms of sub-rule(b) of Rule 34 of Contributory Provident Fund Rules, 1962 read with Department of Pension & PW OM dated 1.5.1987, and order dated 16.1.2002 by which he has been relieved of his duties from NPTI(NR) in the afternoon of 16.1.2002.

2. Admitted facts of the case are that the applicant, while working as Director(Tech/Faculty) in NPTI met with a serious road accident on 30.9.93 and was admitted to Holy Family Hospital in a critical condition. He was



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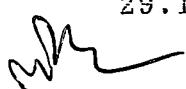
operated upon for the head injuries and remained under treatment in the said Hospital upto 25.8.1994 (i.e. 330 days). He was declared fit to join his duties w.e.f. 26.8.94 and he joined duties accordingly. As it was observed by the respondents that the applicant could not perform his assigned duties he was asked to furnish certain test reports to examine his suitability for continuance in service of NPTI. Test reports along with a certificate dated 26.7.2000 from the Senior Resident, Deptt. of Gastroentereology, GB Pant Hospital certifying that the applicant has been diagnosed as a case of chronic Hepatitis due to Hepatitis B virus were submitted by the applicant on 28.7.2000. Thereafter, applicant's case was ultimately referred to Dr. RML Hospital vide letter dated 11.10.2001 where the applicant was examined by the Medical Board on 8.11.2001, 15.11.2002 and 22.11.2001. Relevant extracts from the Medical Board report dated 29.11.2001 are reproduced below:

"In the opinion of medical board, the candidate is having; (1) post head injury Dementia and (2) chronic hepatitis B infection.

In view of the above problems, particularly dementia, he is unfit to continue working in the present post.

Post head injury dementia is unlikely to improve in the foreseeable future".

Accordingly, applicant was retired from service of NPTI w.e.f. 16-1-2002 16.2.2000 in terms of sub-rule(b) of Rule 34 of CPF Rules, 1962 read with Department of Pension & PW OM dated 1.5.1987. A copy of medical report dated 29.11.2001 was sent to the applicant on 12.2.2002.



Retirement benefits admissible to him were intimated to the applicant on 16.1.2002. However, before release of retirement benefits to him on completion of necessary formalities, a legal notice on behalf of Mrs. Farveen Rehman, w/o the applicant was received by the respondents to the effect that the applicant is not in a position to take any decision and therefore all the decisions in respect of service benefits will have to be taken by his wife Mrs. Farveen Rehman and therefore as the nominee of the applicant she is entitled to receive all the retiral benefits of the applicant.

3. The contention of the applicant is that during his ailment he developed Hepatitis B and is suffering of that and in view of the same, he has been deserted by his wife and two children who are residing separately and are not having any concern of the applicant. Applicant is being looked after only by his sister and niece. Since his wife did not agree live with him, he has divorced his wife. On 25.1.2002, he submitted a copy of 'Talaknama' dated 10.7.2001 declaring therein his divorce from his wife.

4. Heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant has submitted that he is not pressing for the reliefs sought for by the applicant in



the OA but he is restricting his prayer to the effect that since the applicant is still alive and he is mentally sound and that he has already divorced his wife by submitting a copy of 'Talaknama' dated 10.7.2001 to the respondents, all the retiral benefits should be given to the applicant as per CCS(Pension) Rules. Moreover the applicant is in the immediate need of money as the same is required to meet the expenditure on his medical treatment. We find force in this contention. Though the applicant's wife is a nominee to receive retiral benefits of the applicant, since the applicant is very much alive, all the retiral benefits due to him should have to be paid to him as per CCS(Pension) Rules.

6. In such a situation and in the peculiar circumstances of the case, we partly allow this OA with the direction to the respondents to make payment of all the retiral benefits due to the applicant within a period of fifteen days from the date of receipt of a copy of this order.

No costs.

S. Raju

(Shanker Raju)
Member(J)

M.P. Singh

Member(A)

/gtv/