

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2993/2001

New Delhi, this the 16th day of July, 2002

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

K.S. Negi
L-1/294B, DDA Flats
Kalkaji, New Delhi
(By Shri B.B.Raval, Advocate) .. Applicant

versus

Union of India, through

1. Secretary
Ministry of Home Affairs,
North Block, New Delhi
2. Director (SSB)
Directorate General of Security
East Block V, R.K.Puram
New Delhi .. Respondents
(By Shri B.S. Jain, Advocate)

ORDER

Shri M.P. Singh, Member(A):

By the present OA, applicant has assailed the order dated 7.8.2001 by which he has been given three months notice for his premature retirement on medical grounds.

2. The case of the applicant is that he was appointed as Lab. Technician (LT) w.e.f. 15.2.1990 in the office of Divisional Organizer, SSB, Ranikhet.. Thereafter, he joined the office of National Security Guard (NSG) in April, 1993 in the same capacity. While working there he had developed glaucoma in the right eye and he was advised to undergo surgery for vernal catarrh with steroid induced glaucoma at AIIMS on 2.2.94. However, the past operative recovery was not satisfactory necessitating continued medical treatment for his eyes. Because of this he was repatriated to his parent office (SSB) at Ranikhet. Thereafter he was posted to WATS,

ANR

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SSB, Pauri (Garhwal) where he continued to undergo medical treatment for his eyes. Thereafter at his own request he was transferred to T.C. Sarahan vide order dated 15.6.99 and he joined duty at Sarahan on 13.7.99. As he had developed more serious problems with the eyes he again made a request for his posting in Delhi to enable him to get treatment for his eyes in AIIMS. He was thus transferred from Sarahan to Delhi where he joined duty on 1.5.2000. By letter dated 9.5.2001 issued by SSB Directorate, applicant was directed to get himself medically examined in Dr. Ram Manohar Lohia Hospital, New Delhi. He was medically examined by Dr. Shashi Vashishth, Senior Eye Special of Dr. RML Hospital on 11.5.2001, who after medically examining the applicant, gave his findings vide letter dated 1.6.2001 the following effect:

'Glaucomatous optic disc changes both eyes. The left eye has cataractous changes. He is suffering from dry eye syndrome both eyes and cataract with glaucoma left eye. Unfit for the post of laboratory technician'.

3. Thereafter the impugned order dated 7.8.2001 was issued to the applicant. He submitted his representation 20.8.2001, which has not yet been disposed of. Aggrieved by this, he is before us seeking to quash the impugned order dated 7.8.2001 and a direction to the respondents to consider him for any appropriate job for which he can be found fit to be capable of by protecting his pay scale. By an interim order passed on 2.11.2001 respondents were restrained from superannuating the applicant.



4. Respondents in their reply have stated that as the applicant was not found fit for the post of LT by the medical Board of Dr. RML Hospital, the competent authority issued 3 months notice of retirement as per rules, as an unfit official cannot be allowed to continue in service without any productivity work. They have stated that duties of LT involve microscopic analysis of blood, urine and other samples and for this the condition of the eyes should be normal, as wrong analysis could lead to a lot of complications. As regards applicant's representation, the matter has again been referred to Eye Specialist of Dr. RML Hospital for medical opinion whether applicant would be suitable for alternative job being a patient of glaucoma problem or otherwise.

5. Respondents have also filed additional reply on 2.4.2002 annexing therewith a copy of letter dated 8.2.2002 received from RML Hospital intimating the respondents as under:

"The status of eye condition of Shri K.S.Negi remains the same as on 1.6.2001. As per your criteria of charter of duty sent by your office vide letter dated 9.11.2001 the candidate is unfit for this post. However, he may be considered for an office job".

6. Thereafter it has been decided by the respondents to consider the applicant for the post of Nursing Assistant in SSB (Para medical) services in the pay scale of Rs.2650-4000 being less laborious character job. Applicant was asked by the respondents vide their letter dated 11.3.2002 to exercise his option for this post on

or before 13.3.2002 if he is willing to do so. However the applicant has not given his reply so far.

7. During the course of the arguments, the learned counsel for the applicant has submitted that the applicant is willing to accept the lower post (supra) provided his pay is protected in the lower scale so that he is not put to any financial loss. Learned counsel for the respondents has fairly conceded that if the applicant gives his willingness in response to the letter dated 11.3.2002 the same shall be considered by the respondents.

8. In view of this position, this OA is disposed of in the following terms:

Applicant shall respond to the letter dated 11.3.2002 immediately giving his willingness to accept the lower scale post. Thereafter respondents are directed to protect the last pay drawn by the applicant in the post of LT when he is posted and joins duty as Nursing Assistant in SSB (para medical), by grant of personal pay/special pay to him as admissible under rules. Interim order granted by the Tribunal on 2.11.2002 stands vacated.

No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

/gtv/