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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 645/98

This the 21st day of August, 2000.

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S.Tampi, Member (A)

Shri S.N.Sharma,
S/o Sh.L.N.Sharma,
R/o G-2/B, Kiran Garden,
NEW DELHI - 110 059;

.....Applicant

By Applicant in person.

VERSUS

1. Union of India, through,
Secretary,
Department of Legal Affairs,
Ministry of Law, Justice & Company Affairs,
Shastri Bhawan,
NEW DELHI - 110 001.
2. Union of India, through,
Secretary,
Department of Personnel.
Ministry of Personnel, Public Grievances &
Pensions,
North Block,
NEW DELHI - 110 001.
3. Union of India, through,
Director, Public Grievances,
Department of Administrative Reforms & Public
Grievances.
Ministry of Personnel, Public Grievances
& Pensions,
Sardar Patel Bhawan, Sansad Marg,
New Delhi - 110 001.

.....Respondents

By Advocate Sh. P.M.Ramchandani,
Sr. counsel with Sh. Madhav Panikar.

ORDER

By Hon'ble Sh. Govindan S. Tampi, Member (A)

Sh. S.N.Sharma has filed this OA No.645/98
against the order No.A-3014/3/96-Adm.iv(LA) dt.
16-9-96 declaring him to be retired from service
w.e.f. 17-7-96, under the Rule-IV & CCS (Pension)
Rules, 1972. The applicant was originally working as
Assistant in the Committee for Implementing Legal Aid
Schemes under Administration Control of Department of

Legal Affairs. On cessation of that Authority his services along with those of two others were transferred to Department of Legal Affairs where he was transferred internally on one or two occasions. On 12/03/96 he was transferred to Law Ministry's Branch Secretariat, Bombay. As he did not feel happy about the change, he represented against it and made mention in his letter dated 13/3/96 about his intention for voluntary retirement. Subsequently on 22-3-96, he chose to withdraw it, but requested for continued retention in Delhi. He also complained on 09.04.1996 that he was harassed. As the department did not appear to have considered its claims, he made a further representation on 17-4-96, when he was permitted to withdraw his notice for retirement, but was directed to join duties at Bombay. On receipt of the same, he gave another letter, on the same day indicating his intention of retirement which has led to the impugned order dated 16.09.1996 directing that the applicant stands retired from 17.07.1996 (F/N). According to the applicant, he was under considerable mental strain as his representation for retention in Delhi not being accepted and had, therefore, put in his second representation dated 17.04.1996 and, therefore, it was not voluntary retirement. In the circumstances of the case, the same should not have been acted upon and he should have been permitted to continue at Delhi its claim. The grounds raised by the applicant are strongly contested by the respondents, who state that the applicant cannot take the Deptt. for granted and has to bear the consequences of his action.

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2. Heard Sh. Sharma, applicant in person on 8/8/2000. He reiterated the pleas raised in his detailed application and stated that department should not have taken any action to retire him; keeping in view the fact, he was financially a weak person and he had more ^{than} ten years of service, to go. His notice for retirement was an act of desperation and the same should not have been taken note of by the department. He also stated that he was now prepared to abide by the Govt.'s directions.

3. Sh. P.M. Ramchandani, Sr. counsel for the respondents indicates that the individual admittedly chosen to give the notice for voluntary to avoid to the transfer to Bombay, which being a part of the Department of Legal Affairs, was a unit he was duty bound to work in for? He had been given repeated chances to improve his behavioural pattern, but the same had been of no avail. Even at the time of his retirement he had not indicated that he was prepared to work in Bombay. And, therefore, this is the case where the applicant has chosen to use the forum of Tribunal to exploit the situation. The same may not be permitted is the plea by the respondents.

4. Having carefully deliberated the issue and examined the papers we are convinced that the applicant has no case. It is clear from the impugned order that the applicant had given the first notice for voluntary retirement on 13-03-96, indicating that he was not able to go to Branch Secretariat, Bombay following the transfer dated 12-3-96. However, after keeping in view his representations dated 22-3-96, 3-4-96 and 9-5-96, the Competent Authority permitted to allow him to withdraw the notice, but with the

rider that he should obey the transfer orders and join in Bombay. On 17-4-96 and 19-4-96, he again made representation for voluntary retirement with three months notice and affirming that he would not been withdrawing the same. The retirement, therefore, was to correctly take effect from 17/7/96. This was followed by the representation on 9-16/7/96, requesting for the withdrawal of the voluntary retirement notice for the second time. The department considered the same in the totallity of the facts and circumstances, especially his inability or reluctance to comply with the transfere orders and his not being sincere and serious about his duty and also not taking decision about himself. Accordingly, it was decided to retire him and hence the impugned order. In these facts and circumstances, we do not think that there is a case for our interference and keep alive this exercise in futility. The applicant cannot hold the Government and Administration to ransom by frequent threats of voluntary retirement merely because he was not prepared for a transfer. The Administration can not countenance such an unhappy situation. The decision has, therefore, been taken correctly by the Government to retire the individual accepting his notice of voluntary retirement of 17/4/96. His repentence before the Tribunal has come too late in the day and cannot be sustained.

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5. In the result, the application fails and is accordingly dismissed. No order to costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

/VIKAS/

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN (J)