

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 884/96

New Delhi this the 29th April 1999

Hon'ble Shri R.K. Ahooja, Member (A)
Hon'ble Shri S.L. Jain, Member (J)

Liaq Ram,
S/o Shri Pearey Lal,
R/o Flat No. 15, V&PO Khera Kalan,
New Delhi.

Applicant

(By Advocate: Shri Ashish Kalia and
Shri R.L. Sethi)

Versus

Union of India,

1. The Director General of Works,
CPWD Nirman Bhawan,
New Delhi.
2. The Superintending Engineer,
PWD Civil, No. IV, Govt. of Delhi,
I.P. Estate, MSO Building,
New Delhi-110 002.

(By Advocate: Shri Rajinder Pandita)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant while working as Upper Division Clerk (UDC) moved an application dated 19.5.1993 requesting the respondents for giving him voluntary retirement w.e.f. 31.8.1993 because of certain domestic problems. However, he withdrew the request on 31.8.1993 citing change in domestic circumstances. By an order dated 25.8.1993, the applicant was informed that his request for voluntary retirement had been accepted. As a consequence, the applicant was relieved from the post of UDC on 31.8.1993. Certain representations were made against the same which were, however, rejected. Thereafter the applicant filed an O.A. No. 1761/94. By an order dated 4.5.1994, the Tribunal disposed of the O.A. with the direction to

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the respondents to again consider the application for withdrawal of voluntary retirement of the applicant and to decide the same by a speaking order. Simultaneously, the applicant was also allowed to make a representation saying that he will deposit all the payments with interest which he had drawn on voluntary retirement within the stipulated period to the respondents. By Annexure A-1 letter dated 19.2.1996, the respondents have rejected after reconsidering the request for withdrawal of voluntary retirement in the following term:

"On the basis of Judgement dt. 4/5/95 delivered by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi and received vide their letter dt. 15/5/1995, your request for the withdrawal of voluntary retirement - notice submitted by you vide your application dated 25/8/1993 has been reconsidered sympathetically. The reasons/circumstances mentioned by you for the withdrawal of voluntary retirement - notice are not convincing and the same is, therefore, rejected on administrative grounds."

2. The applicant now assails the above decision on the ground that it is a non-speaking order contrary to the specific directions of the Tribunal and further because the respondents had never taken the administrative ground as a reason for earlier rejection of the request for withdrawal of voluntary retirement.

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3. It is the case of the respondents that the applicant was in the habit of moving such applications for voluntary retirement as a device for avoiding transfer and justifying his absence from duty. On an earlier occasion in May 1992 also he had made such a request but had withdrawn it in June 1992. The present request for voluntary retirement had also been made on account of his transfer but he made the request for withdrawal as soon as he came to know that his representation against his transfer order had been accepted. The respondents also point out that the applicant had accepted the decision of voluntary retirement since he had proceeded to accept all his retiral benefits. He was thus now estopped for making an issue of the acceptance of his request for voluntary retirement.

4. We are not persuaded that the respondents are justified in their action. The Tribunal had directed that the respondents should reconsider the request for withdrawal of the request for voluntary retirement and dispose of the same with a speaking order. The respondents, on the other hand, have made a summary disposal by merely stating that the request has been rejected on "Administrative Grounds". The points regarding the past practice of the applicant in submitting requests for voluntary retirement on receipt of transfer orders as well as acceptance of retiral benefits on the present occasion were raised before the Tribunal in O.A. No. 1761/94. These points can, therefore, not be raised against for

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rejecting the request for withdrawal. In any case, these points do not form part of the reasons given by the respondents in the impugned order.

5. We, therefore, quash the order Annexure A-1 dated 19.2.1996 and direct that the applicant would be reinstated in service. This will be done on the condition that he will refund all the pensionary benefits received by him. He will not be required to pay interest thereon but he will also not be entitled to any back wages for the period he was kept out of service. He will, however, be entitled to count the intervening period for the purpose of seniority, increment and promotion.

There will be no order as to costs.

S.L.JN:
(S.L. Jain)
Member (J)

R.K.AJ:
(R.K. Ahuja)
Member (A)

Mittal