

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 2756

of 1997 Decided on: 12.3.98

Sumer Singh

Applicant(s)

(By Advocate: Shri S.P.Mehta)

VERSUS

U.O.I. & Anr.

Respondents

(By Advocate: Shri KCD Gangwani)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

In folio
(S.R. ADIGE)
VICE CHAIRMAN (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No. 2756 Of 1997 *Delhi, 12.3.98*

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Sumer Singh,
S/o Shri Malkhe Ram,
R/o Quarter No.12, Sector 7,
R.K. Puram,
New Delhi. APPLICANT

(By Advocate: Shri S.P. Mehta)

VERSUS

1. Union of India through
Director,
Central Bureau of Investigation,
New Delhi.

2. Superintendent of Police,
C.B.I. A.C.U (1)
New Delhi. RESPONDENTS

(By Advocate: Shri KCD Gangwani)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 24.9.97 (Annexure A-2) and seeks a direction to respondents to take him back ~~immediately~~ on duty with consequential benefits.

2. Admittedly on 12.6.97 (Ann. A-3) applicant requested for voluntary retirement w.e.f. October, 1997, owing to domestic problems. Well before 1.10.97 he withdrew the aforesaid request by letter dated 15.9.97 (Ann. A/4) owing to changed circumstances. However, respondents by impugned order dated 24.9.97, citing Rule 48A [CCA (Pension) Rules} accepted applicant's notice for voluntary retirement w.e.f. 1.10.97.

3. On 3.3.98 when this case had come up ~~had~~ the applicant's counsel had prayed for hearing of the O.A. at admission stage in view of the fact that applicant was jobless since 1.10.97. Respondents' counsel had sought a short adjournment to examine the relevant records. That prayer was allowed and the case was ordered to be listed on 6.3.98. It was made clear that no further adjournment would be granted.

4. Again, when the case came up on 6.3.98, Shri Gangwani sought a further week's adjournment, as he stated that he wanted to place the relevant records before the Bench to explain ^{the} background in which applicant's notice for voluntary retirement had been accepted. This prayer for further adjournment was vehemently opposed by applicant's counsel. As the legal position in such matter is clear, the prayer for further adjournment was rejected.

5. Rule 48 (A)(1) CCS (Pension) Rules requires a Govt. servant to give a minimum three months notice for voluntary retirement applicant had given more than three months notice for voluntary retirement. Rule 48 A(4) reads thus:

"A Govt. servant who has elected to retire under this rule and has given the necessary notice to that effect the appointing authority shall be precluded from withdrawing his notice except with the specific approval of such authority.

Provided that the request for withdrawal shall be made before the intended date of retirement."

6. In the present case admittedly the request for withdrawal (15.9.97) was made before the intended date of retirement (1.10.97).

7. In Raj Kumar Vs. UOI AIR 1969 SC 180, attention to which was invited by applicant's counsel, the Hon'ble Supreme Court has held that till the resignation is accepted by the appropriate authority in consonance with the rules governing acceptance, the public servant concerned has *locus parentis* but not thereafter. In UOI Vs. Gopal Chandra AIR 1978, SC 694 the same principle has been adumbrated, namely the resignation becomes effective when it is accepted by the competent authority, but if such resignation is to be effective from a future date, the act of resigning ~~officer~~ is not complete and can at any time before that date be legally withdrawn. Yet another ruling, which in our view fully applies to the facts of the present case is Balram Gupta Vs. UOI AIR 1987 SC 2354, also cited by applicant's counsel.

8. In the result this O.A. succeeds and is allowed. The impugned orders dated 24.9.97 are quashed and set aside. In line with the ruling on Balram Gupta's case (Supra), applicant is entitled to be put back in his job with all consequential benefits, being treated in the job from 1.10.97. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)

MEMBER (J)

S. R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

/GK/