

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A.No.112 of 1994

New Delhi, this 5th day of April 1999.

HON'BLE MR. K. MUTHUKUMAR, MEMBER(A)
HON'BLE MR. J. S. DHALIWAL, MEMBER(J)

Piara Singh Dudiala
S/o Shri Harnam Singh Dudiala
R/o House No.145 Gali No.4
Vishwa Kerma Mohalla
Yamuna Nagar-135001.
Haryana.

... Applicant

By: Applicant in person.

versus

1. Union of India, through
The Secretary
Ministry of Petroleum & Chemicals
New Delhi.
2. The Director General
Council of Scientific Research &
Industrial Research
Rafi Marg
New Delhi.
3. The Director
Indian Institute of Petroleum
Mohkram Pur
Dehradun
U.P.

... Respondents

By Advocate: Shri V.K. Rao

O R D E R

HON'BLE MR. K. MUTHUKUMAR, MEMBER(A)

The applicant who was in the service of the respondents challenged his removal from service under the respondents with effect from 9.5.1980. His challenge ended with his filing a Special Leave Petition before the Hon'ble Supreme Court. His Petition was disposed of by the Apex Court by its order dated 17.12.1984 which is reproduced as follows:-

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"After hearing counsel for the parties we are happy that there is complete agreement on the stand taken by counsel for the parties. In the peculiar facts and circumstances of the case, we set aside the order of removal on the condition that the respondent shall pay the entire arrears from the date of suspension right upto 9th May, 1980, giving due credit for the amount which has already been received by the appellant.

That the appellant agrees to voluntarily resign with effect from 9th May, 1980 which shall be accepted by the respondent. In view of the aforesaid statement the appellant will be deemed to have resigned voluntarily with effect from 9th May, 1980.

As the appellant is deemed to have resigned with effect from 9th May, it is obvious that he will be treated as being in service till that date and not being under suspension.

The appeal is disposed of accordingly without any order as to costs."

2. After the above order, the applicant made several representations to the respondents including the Vice President of CSIR and also a letter to the Prime Minister of India and has thereafter filed the present OA. In this

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application, the applicant seeks reinstatement in service with full consequential service benefits till the age of 60 years: interest @24% on arrears and also revision, gratuity, leave encashment, group insurance etc.

3. The respondents have denied all the allegations made in the application by the applicant. They have averred that in pursuance of the order passed by the Apex Court, his dues on account of pay and allowances and other benefits including Hill Allowance, Winter Allowance etc. for the period from 13.7.1971 to 9.5.1980 were paid to him as early as 1985 by Cheque No.322509 dated 29.4.1985 and thereafter his leave encashment dues were also paid to him by Cheque No.325809 dated 5.5.1986 as per the details given in Annexure R-1 to the counter reply. They have, therefore, submitted that the applicant is not entitled to any of the reliefs prayed for in the application.

4. We have heard the applicant in person and also the learned counsel for the respondents and have perused the records.

5. From the orders passed by the Apex Court dated 17.12.1984 it is clear that since the applicant was deemed to have resigned voluntarily with effect from 9.5.1980 and he was treated as being in service till that date, the respondents have disbursed all his dues as per the informations given in Annexure R-1 to the counter reply and these payments made as early as April 1985 and May 1986 and also final payment of G.P.F. in January 1987 have not been

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denied and challenged by the applicant in this application. The applicant seeks the reliefs on the ground that his deemed resignation would come into effect only on the acceptance of his resignation by the competent authority and in the absence of any order, he should be deemed to have continued in service. The other ground taken by him is that the respondents have not given him the details of payments made to him.

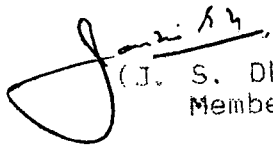
6. In the written submissions filed by the applicant, he states that he was entitled to be given promotion during his period of service and that since he had worked for more than ten years or more he was entitled to pension under the Pension Rules and, therefore, the fact that he was deemed to have resigned would not be material. In support of this, he relies on certain case laws. We are of the view that in the facts and circumstances of his case leading to the Apex Court's order holding him as deemed to have resigned from service, the decisions relied upon by him are not of any assistance.

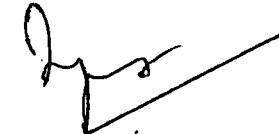
7. We do not find any substance in the contention of the applicant. When it was held by the Apex Court that he was deemed to have resigned on the basis of the agreement reached before the Hon'ble Supreme Court between the parties and it was held by the Apex Court that he would be deemed to have resigned voluntarily with effect from 9.5.1980, the applicant cannot claim to be in service. He cannot also dispute about the payments as the payments were made to him between 1985-1987 and if he had any dispute

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regarding the same, he should have challenged about the correctness of those payments also at the relevant time. We are, therefore, of the view that this application has no merit and this has to be dismissed and is accordingly dismissed. There shall be no order as to costs.


(J. S. Dhaliwal)
Member (J)


(K. Muthukumar)
Member (A)

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