

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

OA.No.1173 of 1994

(9)

New Delhi, this 28th day of July, 1999.

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN(J)
HON'BLE S.P. BISWAS, MEMBER(A)

H.R. Bashal
S/o Late Shri K.R. Bashal
R/o A-57, Panchshila Enclave
New Delhi-110017. ... Applicant

By Advocate: Shri V.S.R. Krishna

versus

Union of India, through
The Secretary
Department of Telecommunications
Sanchar Bhawan
Parliament Street
New Delhi-110001. ... Respondents

By Advocate: None present.

O R D E R (ORAL)

Hon'ble Shri A.V. Haridasan, VC(J)

The applicant who retired on superannuation on 31.3.94 after serving as a Director, TFP TC HQ, Delhi has filed this application impugning the order dated 30.3.94 (Annexure A-1) by which he was placed under suspension invoking power under Sub-Rule(1) of Rule 10 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 by an order in the name of the President. The case of the applicant is that the order of suspension though alleged to have been made on 30.3.94 in fact was ante dated and put in transit to him by registered post on 31.3.94 after he was allowed to retire on superannuation. The applicant has alleged that

10

as he has performed duties on 30.3.94 and 31.3.94, the impugned orders of suspension if made on the date on which it was purported to have been made, there was no need to send it by regd. post and therefore it is clear that the order was only after his retirement. The impugned order of suspension actually passed after the retirement of the applicant is inoperative, invalid and unsustainable in law, states the applicant. To substantiate that the applicant attended office on 30.3.94 and 31.3.94, the applicant has produced a list of files dealt with by him on 30.3.94 and 31.3.94 (Annexure-C to the rejoinder). The applicant has also alleged that the impugned order of suspension was sent by registered post only on 31.3.94 and has also produced evidence to prove it.

2. The respondents do not deny that the impugned order of suspension was sent by registered post to the applicant only on 31.3.94 but would say that as the applicant was not seen either in the office or in his house on 30/31.3.94, the order was sent by registered post.

3. When the application came up for hearing today, Shri V.S.R. krishna appeared for the applicant and none appeared for the respondents.

4. On going through the facts and circumstances emerging from the pleadings and the documents which are placed on record, we

✓

are of the opinion that the contention of the applicant that the order of suspension was made only after the retirement of the applicant is more acceptable. The applicant has produced Annexure-C list showing the files dealt with by him on 30.3.94 and 31.3.94. In the order Annexure-3 it is seen stated thus:-

"Consequent upon attaining the age of superannuation Shri H.R. Bashal, Director (TFP), TCHQ, Delhi is permitted to retire from Government service with effect from 31.3.1994(A/N)."

5. The fact that a vigilance enquiry is pending against the applicant and that he would be entitled to provisional pension only in view of rule 69 of CCS(Pension)Rules,1972 has also been mentioned. If the order of suspension was made before 31.3.94, normally and naturally a mention to that effect would have been made in the order. The impugned order was sent by registered post only on 31.3.94. The attempt made by respondents to show that applicant was not seen in the office through Annexures R-IV to R-VI does not appear to be convincing at all. Under the circumstances, the impugned order of suspension dated 30.3.94 issued after the applicant's superannuation, is liable to be set aside. Apart from seeking to have the impugned order of suspension set aside, the applicant has also prayed that Annexure A-3 order dated 31.3.94 may be suitably modified to enable him to get the retirement benefits. We are informed that a chargesheet against the

(12)

applicant has been filed. Therefore, we do not consider that it is possible to modify the order directing the respondents to disburse to him the entire retirement benefits now. Regarding the disbursement of the retirement benefits, we direct that the respondents should take action in the matter in accordance with law.

6. In the light of what has been stated above, we dispose of this application setting aside the impugned order dated 30.3.94 (Annexure A-1) and directing the respondents to take action in regard to the disbursement of the retirement benefits of the applicant in accordance with law.

No order as to costs.

S.P. Biswas
(S.P. Biswas)
Member(A)

A.V. Haridasan
(A.V. Haridasan)
Vice Chairman(J)

dbc