

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 514 of 1994

New Delhi this the 5th day of August, 1994

Mr. Justice S.K. Dhaon, Acting Chairman
Mr. B.N. Dhoundiyal, Member.

Shri Man Singh
C-23 Jail Staff Quarters,
Central Jail Tihar,
New Delhi.

...Applicant

Shri V.P. Sharma, proxy counsel for Shri G.D. Bhandari,
Counsel for the applicant.

Versus

1. The Inspector General of Prisons,
Central Jail Tihar,
New Delhi.
2. Government of National Capital Territory,
through the Secretary, Home,
Government of NCT,
Delhi.
3. Shri Tarun Kumar,
Superintendent,
Jail No.2,
Central Jail Tihar,
New Delhi.

....Respondents

By Advocate Shri Jog Singh

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Acting Chairman

The order dated 14.02.1994 accepting the offer of voluntary retirement of the applicant passed by the Inspector General (Prisons), is being impugned in the present application.

2. On or before 14.02.1994, the applicant was employed as a Head Warder in the Tihar Jail. On that day, he addressed an application to the Inspector General (Prisons) stating therein that he did not wish to serve the Department any longer and, therefore, he may be retired from service.

3. The impugned order runs as follows:-

"Consequent upon tendering application for voluntary retirement, Shri Man Singh, Head Warder, Roll No. 106 is hereby retired voluntarily with effect from 14.2.1994 (After Noon)".

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4. We are not impressed with the assertion made by the applicant in the O.A. that he made the said application seeking voluntary retirement on 14.02.1994 under duress or under compulsion. However, we are inclined to accept the submission raised in the O.A. that the impugned order suffers from legal infirmity in so far as, by it, the Inspector General (Prisons) purported to relieve the applicant from service with effect from 14.02.1994.

5. Rule 48-A of the C.C.S. (Pension) Rules, inter alia, provides that at any time after a Government servant has completed 20 years qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service. It is stated at the Bar by the learned counsel for the respondents that on 14.02.1994, the applicant had 26 years service to his credit. Sub-rule (3-A) of Rule 48-A, inter alia, provides that a Government servant may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor. It also provides that the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period will not cause any administrative inconvenience, it may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months. Sub-rule (4) posits that a Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority. The proviso thereto states that the request for withdrawal shall be made before the intended date of retirement.

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6. Reverting to the letter of request of the applicant for voluntary retirement dated 14.02.1994, we find that in it there is not even a whisper that the period of 3 months notice may be waived. Likewise, in the impugned order we do not find any indication that the Inspector General (Prisons) applied her mind to the provisions of Rule 48-A and permitted the applicant to go on retirement without giving 3 months notice. The net result is that the offer of voluntary retirement given by the applicant on 14.02.1994 did not become effective from that date. However, there is nothing to prevent us from taking the view that the said offer became effective immediately after the expiry of 3 months period from 14.02.1994. There is nothing on record to suggest that during the period of 3 months from 14.02.1994, the applicant ever approached the Inspector General (Prisons) with the request that he may be permitted to withdraw his offer of voluntary retirement. Moreover, as we have already referred to the relevant provision, mere withdrawal of the offer is not enough. The withdrawal has to be accepted by the appointing authority.

7. In this O.A. there is not even a whisper that the applicant may be permitted to withdraw the offer of voluntary retirement. On the contrary, the applicant has come out with a specific case that he gave the offer of voluntary retirement not on his ^{own} volition but under duress. We have already rejected that theory.

8. The relevant record has been produced before us and on that basis Shri Jog Singh, the learned counsel for the respondents, has urged that the applicant acted in his own interest in seeking voluntary retirement from 14.02.1994 as he was facing an imminent danger of a criminal prosecution. We find that the submission made by him is amply corroborated by the record. The record shows that on 14.02.1994, the applicant was

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apprehended while accepting illegal gratification of Rs.50/- from certain prisoners. Be that as it may, the fact remains that the offer of voluntary retirement was accepted with effect from 14.02.1994 rather illegally. We, therefore, direct that the voluntary retirement of the applicant shall be deemed to have come into effect immediately after the expiry of period of 3 months from 14.02.1994. We also make it clear that the applicant shall now not be entitled to request the Inspector General (Prisons) to permit him to withdraw his offer of voluntary retirement. However, we direct that the applicant shall be paid his usual emoluments for the period of 3 months from 14.02.1994.

9. With these observations, this application is disposed of finally but without any order as to costs.

The interim order passed on 25.03.1994 is hereby vacated.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

S.K. Dhaon
(S.K. DHAON)
ACTING CHAIRMAN

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