

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 529/2000

New Delhi, this the 8th day of May, 2001

(19)

HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

Shri Subhash Chander Dhawan (D-I/972)
Retired Inspector (Ministerial),
R/o N-26 & 27,
Street No.3, Vijay Nagar,
Uttam Nagar,
New Delhi. Applicant
(By Advocate : Shri Shyam Babu)

V E R S U S

1. Govt. of NCT Delhi,
through its Chief Secretary,
5, Sham Nath Marg,
Delhi : 110 054
2. The Commissioner of Police
Delhi Police Headquarters,
I.P. Estate,
New Delhi.
3. The Special Commissioner of Police,
(Intelligence),
Police Headquarters,
I.P. Estate,
New Delhi Respondents
(By Advocate : Ms Pareena Swarup)

ORDER (ORAL)

By S.A.T. Rizvi, Member (A):

The applicant impugns respondents' Memo dated 7.7.1999 (Annexure-A) by which the order of the Special Commissioner of Police has been conveyed thus -

"DE to be held. The notice for voluntary retirement would be considered later after completion of D.E."

and seeks the following set of reliefs:-

- a) this Tribunal to declare that the applicant stood retired as per the

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notice dated 8.6.1999 (Annexure-B) w.e.f. 8.9.1999 in accordance with rule 48 of the CCS (Pension) Rules, 1972,

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b) this Tribunal to declare that respondents' impugned order dated 17.7.1999 (Annexure-A) is illegal and the respondents' order dated 19.8.99 (Annexure-N) by which his request for Leave Preparatory to Retirement has not been accepted ~~as~~ also illegal,

c) this Tribunal to declare that the respondent No.3 (Special Commissioner of Police) has no jurisdiction/authority to re-start the ~~2 by order~~ DE dated 7.7.1999 which was stopped/withdrawn by order dated 14.6.1999 (Annexure-E),

d) this Tribunal to direct the respondents to sanction Leave Preparatory to Retirement w.e.f. 14.7.1999 to 8.9.1999, and

e) this Tribunal to direct the respondents to take immediate steps to grant/release all retiral benefits to the applicant with interest @ 18% per annum.

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2. I have heard the learned counsel on either side and have perused the material placed on record.

3. The facts of the case briefly are like this. A regular Departmental Enquiry (DE) was ordered against the applicant on 7.6.1999. The very next day the applicant filed two applications for the consideration of the respondents. In one application of 8.6.1999 he has applied for voluntary retirement by giving three months' notice on the ground of ill health. In the other application of the same date he has applied for dropping of the DE by stating that he desired to proceed on voluntary retirement. The aforesaid first application has, in fact, been made an enclosure to the latter application. The aforesaid first application was forwarded by the ACP with the remarks that the applicant Inspector has already been ordered to be proceeded against departmentally for official negligence and carelessness. Clearly thus, the notice for voluntary retirement was a conditional one and before the same was given, a regular DE had already been ordered. By an order of 14.6.1999 the Special Commissioner of Police (Respondent No.3) allowed the applicant to proceed on voluntary retirement in case he wished to do so. He also observed that the DE proceedings may not be started in view of his proceeding on voluntary retirement. Just a little later, on 2.7.1999 the very same officer, namely, the Special Commissioner of Police, made the following observations:-

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"Inspector Subhash Dhawan may be explained facts and told to decide whether he would like to go on voluntary retirement or would like to make the D.E. reason for doing so. If so, we would like to conduct the DE before acting on his voluntary retirement notice. He may be asked to clarify before taking any action."²

The learned counsel appearing on behalf of the applicant has vehemently argued that by his order of 14.6.1999, the competent authority/Special Commissioner of Police had accepted the applicant's notice for voluntary retirement. I find that, that is not the case at all. The Special Commissioner of Police has nowhere stated in the aforesaid order that the DE proceedings were being dropped or had been dropped. He had merely indicated that the DE proceedings may not be started in view of his proposal to proceed on voluntary retirement. The very same officer, after further consideration of the matter, ordered that the DE was to be held (Annexure-A). The matters thereafter remained under consideration for quite some time and the DE initiated against the applicant was actually dropped by the respondents on 29.5.2000 and this was done on the ground that the applicant was proceeding on voluntary retirement. Thus dropping of the DE was made conditional and it is not possible to infer from the said order that the DE was dropped on merits. By another order of the same date, namely, 29.5.2000, the notice of the applicant for voluntary retirement was accepted under rule 48 (A) of the CCS (Pension) Rules, 1972. The said order clearly indicates that the applicant was to be deemed to have retired from Delhi Police w.e.f. 9.9.1999.

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4. At the time of hearing, the learned counsel appearing on behalf of the applicant has pressed for just one relief, namely, the relief by way of payment of interest on the retiral benefits already received by the applicant. According to him, all the retiral benefits due to the applicant have been given on 8.9.2000, but this has been done after one year's delay inasmuch as in terms of his notice for voluntary retirement he stood retired w.e.f. 8.9.1999. According to him, the payment of the retiral benefits to the applicant was with-held arbitrarily and illegally by the respondents and that is why the claim for payment of interest.

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5. The learned counsel appearing on behalf of the respondents, on the other hand, contends that the applicant himself has signed his pension papers only on 10.6.2000 after the aforesaid order dated 29.5.2000 had been passed. The payment of gratuity to the applicant was authorised soon thereafter on 25.8.2000. The rest of the payments due to him have admittedly been made on 8.9.2000. Thus, according to the learned counsel appearing on behalf of the respondents, there has been no delay at all in processing the pension papers of the applicant and, therefore, there is no case for the payment of interest.

6. I have carefully considered the rival contentions raised by the learned counsel. I am clear in my mind that the payment of pensionary

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benefits could not have been made in any case before passing of the aforesaid order dated 29.5.2000 and before the pension papers were signed by the applicant. In this view of the matter, I find myself in total agreement with the plea taken by the respondents that there has been no delay in the payment of retiral benefits and there is not case at all for payment of interest on account of delay.

7. I also find that the applicant has impugned departmental proceedings initiated against him before this Single Bench, which has no jurisdiction in the matter. Looking at the nature of reliefs sought by the applicant I also find that the OA suffers from multifariousness of reliefs and, therefore, bad on this count also.

8. For all the reasons mentioned in the preceding paragraphs, the OA fails and is accordingly dismissed. No costs.


(S.A.T. RIZVI)
MEMBER (A)

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