

(19)

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No.934/2000

New Delhi this the 9th day of February, 2001

Hon'ble Mr. V.K. Majotra, Member (A)  
Hon'ble Mr. Shanker Raju, Member (J)

Ex. Head Constable Sunder Singh,  
No. 8141/DAP  
S/o Shri Mange Ram,  
R/o Village and Post Office Bharaha,  
District Jajhar, Haryana

-Applicant

(By Advocate: Mrs. Avnish Ahlawat)

Versus

1. Govt. of NCT of Delhi  
through Commissioner of Police,  
Delhi Police, Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi-110 002.

2. Deputy Commissioner of Police,  
Headquarters (C & T),  
Police Headquarters,  
M.S.O. Building,  
I.P. Estate,  
New Delhi-110 002.

-Respondents

(By Advocate: Mrs. Neelam Singh)

ORDER (Oral)

Mr. Shanker Raju, Member (J)

The applicant who was a Head Constable in Delhi Police and granted voluntary retirement is assailing an order of the respondents dated 28.3.2000 whereby his request for re-employment as a police pensioner has been rejected on the ground that the same does not come under the purview of the rules. The applicant who had completed a qualifying service of about 20 years 7 months and 3 days sought for voluntary retirement under Rule-48(A) of CCS (Pension) Rules, 1972 and was allowed the same and stood voluntary retired and was granted pension by the respondents. Subsequently, the applicant made an application on 22.12.99 requesting the

13

respondents for his re-employment as police pensioner on the ground that he qualifies all the eligibility criteria laid down under Rule-29 and his discharge certificate shows an excellent service rendered with the respondents. The learned counsel of the applicant submitted that Rule-29 is very much applicable to the applicant as he was discharged on pension on voluntary retirement and is also below the age of 50 years & is having an excellent service record. The applicant's counsel further contended that the provision of Rule-29 of Delhi Police (Appointment & Recruitment) Rules, 1980 are not applicable in a case of a normal pensioner in view of the fact that the normal pensioner retires at the age of 58 years and in the rules *ibid*, the age prescribed is 50 years subject to certain conditions. The applicant further contends that the provision of Rule-48-A of CCS(Pension) Rules would not be applicable and the applicant has been duly granted permission to voluntary retire and this provision do not deal with the re-enrolment of a police pensioner.

2. Respondents' counsel denied the claim of the applicant on the ground that the provision of Rule-29 *ibid* would only apply only in the case where police officer is discharged either on compensation or invalid gratuity. The respondents further contended in para 4.9 of the counter that the case of the applicant is not covered as he had been retired on voluntary pension under Rule-48-A of CCS (Pension) Rules 1972 and there was no request of the applicant for withdrawal of his

voluntary retirement. According to the respondents, his case for re-employment cannot be entertained at this belated stage after expiry of more than 4 years.

3. We have heard the learned counsel of the parties and perused the material on record.

4. Rule-29 of Delhi Police (Appointment & Recruitment) Rules reads as follows:-

"Enrolment of Police Pensioners:- Police officers of subordinate ranks discharged on a compensation or invalid gratuity or pension may be re-employment in the same rank which they had held before retirement in the Police service, upto the age of 50 years subject to the condition, that the retired subordinate officer who has obtained a gratuity/pension, if re-employment in qualifying service, may either retain his gratuity/pension in which case his previous service shall not count for future pension, or refund it and count his previous service towards future pension. The option shall be exercised within a period of three months from the date of re-employment. Such re-employment shall be made only after fresh medical examination by the police pensioner showing that his previous service was classified as not lower than very good. The order re-employing such officer shall specifically state the amount of any gratuity or pension received by him on discharge and a copy of such order shall also be sent to the Pay and Accounts Officer concerned".

5. In our view, the case of a police officer who has been discharged on a compensation and who has not attained the age of 50 years at the time of re-employment as a pensioner would be covered under this rule. The provision of Rule-48 (A) of CCS(Pension) Rules, 1972 would not apply in the case of the applicant and the fact that he has not sought withdrawal of his

13

voluntary retirement would be irrelevant for the purpose of considering the claim of the applicant under Rule-29 ibid. We find that the applicant being a pensioner on account of his voluntary retirement from service and who had not attained the age of 50 years when he had applied for re-enrolment as a police pensioner and also the fact that the service record classified him as excellent as per the discharge certificate in all four corners is covered under the provisions of Rule-29 ibid for being re-enrolled as a police pensioner. As regards the contention of the respondents that the claim of the applicant is belated and made after 4 years would not have any application as Rule-29 does not specify any time limit for staking a claim for being re-employed as a police pensioner.

6. We also do not agree with the contention of respondents' counsel that Rule-29 ibid would only cover the cases of police officers who have discharged on compensation or invalid gratuity or invalid pension. The pension figuring in the rules is to be read independently & disjunctively without being linked with invalid gratuity and compensation. Police officer discharged on a pension before attaining the age of 50 years would also include in itself the cases of police officer who had sought voluntary retirement under the provisions of Rule 48-A of CCS (Pension) Rules 1972.

7. In view of the above observation, we are of the considered opinion that the applicant is legally entitled to be considered for re-employment as a police pensioner under Rule-29 ibid and the respondents have

worngly rejected his claim without application of mind to the provision ibid. In the result, the OA is allowed. The impugned order dated 28.3.2000 is quashed and set aside. The respondents are directed to consider the applicant for re-employment as Police pensioner keeping in view the observations made above. The aforesaid directions shall be complied with within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)  
Member (J)

V.K. Majotra

(V.K. Majotra)  
Member (A)

cc.