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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 44/89  
T.A. No.

199

DATE OF DECISION 10.5.1991

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|--|---|
| Shri Kewal Krishan   | <del>Petitioner</del> Applicant                     |
| Shri Sant Lal  | Advocate for the <del>Petitioner(s)</del> Applicant |
| <b>Versus</b>  |   |
| Union of India through the<br><del>Secy., Miny. of Communications &amp; I.S.</del> | Respondent  |
| Shri M.L. Verma  | Advocate for the Respondent(s)                      |

**CORAM**

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Karths, Vice-Chairman)

The applicant, who has worked as Mail Overseer in the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To set aside the impugned orders dated 19.9.1984, 2.1.1985, 11.6.1985 and 12.10.1987 at Annexures A-1 to A-5, pages 15 to 19 of the paperbook;
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- (ii) to declare the notice of voluntary retirement as withdrawn;
- (iii) to direct the respondents to reinstate the applicant in service forthwith; and
- (iv) to grant consequential benefits of treating the entire period from the date of retirement to the date of reinstatement as period spent on duty for all purposes with full pay and allowances.

2. The facts of the case in brief are as follows. The applicant joined the Department of Posts as a Packer, which is a Group 'D' post, in 1958. He was promoted as Postman in 1962 and as Mail Overseer in 1982. On 23.6.1984, he submitted his notice seeking voluntary retirement, wherein he gave three months' notice to the respondents. On 18.8.1984, he wrote to the respondents stating that he was withdrawing his notice of voluntary retirement. This was within the notice period of three months. On 19.9.1984, the respondents rejected his application dated 18.8.1984 without assigning any reason. The representations submitted by the applicant thereafter, did not yield any results. That is how the present application came to be filed in the Tribunal.

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3. The respondents have filed their counter-affidavit, wherein they have raised some preliminary objections along with their <sup>a</sup> reply on the merits. We may first consider the preliminary objections raised by them.

4. The first objection raised by the respondents is that the application is not maintainable on the ground that it is barred by limitation. The applicant has filed MP-44/89 seeking condonation of delay in filing the application. In the said M.P., he has stated that the final order on his representation was passed by the Director General (Posts), New Delhi on 12.10.1987, which was received by him in the last week of October, 1987. Thus, there is a delay of <sup>only a</sup> ~~about~~ two months in filing the application on 4.1.1989.

5. The question of delay was considered by the Tribunal on 10.1.1989 when the application came up for admission. The Tribunal condoned the delay and allowed MP-44/89 in the interest of justice. We, therefore, see no substance in the preliminary objection raised by the respondents. At any rate, the respondents should not be <sup>a</sup> allowed to raise ~~be~~ <sup>a</sup> ~~the~~ technical plea of limitation to defeat the just claims of the applicant. <sup>a</sup>

6. The second preliminary objection raised by the respondents is that the application is barred under Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1985. We do not see any substance in this contention as the provisions of Rule 6(2) provide that persons who have ceased to be in service by reason of retirement, dismissal or termination of service, may, at their own option, file an application with the Registrar of the Bench within whose jurisdiction such persons are ordinarily residing at the time of filing of the application. In the instant case, the applicant was residing at Delhi at the time of filing of the application.

7. The contention of the respondents on merits is that the competent authority did not find any solid ground for withdrawal of the notice dated 23.6.1984.

8. We have carefully gone through the records of the case and have considered the rival contentions. The legal position in a case of this kind is well settled. In Balram Gupta Vs. Union of India, AIR 1987, S.C. 2354, the question arose whether a notice seeking voluntary retirement from service under Rule 48-A of

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the C.C.S. (Pension) Rules, 1972, could be withdrawn by a Government servant before it became effective and whether the Government could withhold approval to such withdrawal of retirement without giving any reasons.

9. In Balram Gupta's case, the Government servant had sought to withdraw his letter of resignation before the expiry of the notice period of three months. However, the respondents issued an order to the effect that the government servant is allowed to retire voluntarily with effect from the expiry of the notice period. This was challenged before the Supreme Court. The Supreme Court held that there was no valid reason for withdrawing the permission by the respondents. The Supreme Court observed that the approval envisaged in Rule 48-A(4) of the CCS (Pension) Rules, 1972, "is not ipse dixit of the approving authority. The only reason put forward here is that the appellant had not indicated his reasons for withdrawal. This, in our opinion, was sufficiently indicated that he was prevailed upon by his friends and the appellant had a second look at the matter. This is not an unreasonable reason". (vide para.11 of the judgement).

10. The Supreme Court in Balram Gupta case also has

made certain general observations as to the need to adopt a liberal approach in dealing with such cases in the present day world. The following extracts from the judgement are relevant:-

"In the modern and uncertain age it is very difficult to arrange one's future with any amount of certainty, a certain amount of flexibility is required, and if such flexibility does not jeopardize government or administration, administration should be graceful enough to respond and acknowledge the flexibility of human mind and attitude and allow the appellant to withdraw his letter of retirement in the facts and circumstances of this case. Much complications which had arisen could have been thus avoided by such graceful attitude. The court cannot but condemn circuitous ways "to ease out" uncomfortable employees. As a model employer the government must conduct itself with high probity and candour with its employees.

(Vide para.13 of the judgement)

11. To the same effect are the judgements of the Supreme Court in Union of India Vs. Gopal Chander Misra, A.I.R. 1978 S.C. 649, Raj Kumar Vs. Union of India, A.I.R. 1969 S.C. 180; and Punjab National Bank Vs. P.K. Mittal, J.T. 1989 (1) S.C. 264.

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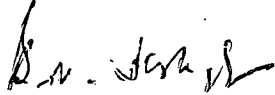
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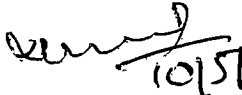
12. Following the ratio in Shri Balram Gupta's case mentioned above, we hold that the applicant is entitled to the reliefs sought in the present application. Accordingly, we set aside and quash the impugned orders dated 19.9.1984, 2.1.1985, 11.6.1985 and 12.10.1987, whereby the respondents have refused to allow the applicant to withdraw his notice of voluntary retirement. In the facts and circumstances of the case, we declare that the notice of voluntary retirement must be deemed to have been withdrawn w.e.f. 23.9.1984, the date on which the notice period of three months would have expired. The respondents are directed to reinstate the applicant in service as Mail Overseer within a period of two months from the date of receipt of this order. The applicant would also be entitled to all consequential benefits, including full pay and allowances for the period from 23.9.1984 to the date of his reinstatement. The respondents are, however, at liberty to adjust the amount already paid to the applicant towards pension and other retirement benefits, if this has been done, from the amount due to be paid to him on account of pay and allowances during the said



period. The period from 23.9.1984 to the date of his reinstatement shall be deemed to be the period spent on duty for all purposes.

There will be no order as to costs.

  
(B.N. Dhoundiyal) 19/5/81  
Administrative Member

  
(P.K. Kartha)  
Vice-Chairman(Judl.)