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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. D.A. 1345/87.

DATE OF DECISION: 18.1.1993

Purushottam Gopalrao Walke.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

... None.

For the Respondents.

... Shri K.C. Mittal,
Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioner sought voluntary retirement under F.R. 56 and Rule 48 of the Pension Rules. The notice dated 27.9.85 given /by him has been produced which reads as under:

"Kindly therefore allow me to retire from service voluntarily with effect from 1.1.86 A.N. Please treat this letter as 3 months' notice under the rules referred to above. My date of birth is 3.8.1928 and I entered the Department on 17.4.1950".

2. The authorities on receipt of the said notice made an order on 14.11.1985, copy of which has been produced in this case, which reads as under:

"Consequent on the acceptance of his notice of Voluntary Retirement under FR 56(K), Shri P.G. Walke, Accounts Officer, presently working in the office of the Director, Postal Services, Lucknow, will retire from service on 31.12.85 (A.N.)".

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3. The petitioner has approached this Tribunal in which he has prayed that he should be granted the DCRG and Leave Encashment on the basis that he retired on the afternoon of 1.1.1986 and not as on 31.12.1985. The significance of one day in this case flows from the fact that/revision of pay-scales came effective from 1.1.86. It is clear that the petitioner has the right to choose the date from which he would like to retire from service after putting the required number of service. The only condition, however, he has to satisfy, is that the period of notice should not be less than three months. As long as this condition is satisfied, he is entitled to choose any appropriate date for retirement beyond a period of three months. That is precisely what the petitioner has done in this case. He had fixed the date from which he wanted to retire from service. After such a notice given by the petitioner fixing a particular date of retirement beyond a period of three months, it was not open to authority to retire the petitioner from the date which the petitioner had not chosen. Hence, we have no hesitation in holding that the respondents were not right in retiring the petitioner w.e.f. 31.12.1985. As the petitioner has been, in fact, retired from service, the question of putting him back in service does not arise. All that we can do is to direct the respondents to deem that the petitioner retired from service in the afternoon of 1.1.1986.

4. For the reasons stated above, this petition is allowed and the respondents are directed to recompute the DCRG and Leave Encashment after fixing his pay in the revised pay-scales w.e.f. 1.1.1986. The difference in the emoluments on that basis shall be worked out and paid to the petitioner in respect of the two items aforesaid within a period of three months from the date of receipt of a copy of this judgement. No costs.

dkl
(I.K. RASGOTRA)

MEMBER(A)

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V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN