

16

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1280/90

New Delhi this the 12th day of September, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Shri J.P. Sharma, Member(J).

Nand Gianchandani,  
S/o Late Shri M.T. Gianchandani,  
R/o D-87, Sarojini Nagar,  
New Delhi.

...Applicant.

None for the applicant.

Versus

1. Chief of Naval Staff,  
Naval Headquarters,  
Sena Bhavan,  
New Delhi.

2. Director of Civilian Personnel,  
Naval Headquarters,  
Sena Bhavan,  
New Delhi.

...Respondents.

By Advocate Shri J.C. Madan, proxy for Shri P.H. Ramchandani, Sr. Counsel.

ORDER (ORAL)

Shri N.V. Krishnan.

The applicant's grievance is that the respondents have not considered his application for withdrawal of the notice he gave for voluntary retirement and he was accordingly retired with effect from 30.9.1989.

2. The applicant had completed  $32\frac{1}{2}$  years of service when he was apprehending a transfer to ~~the~~ Visakhapatnam. On 29.6.1989, he gave notice to the 1st respondent seeking voluntary retirement from 31.8.1989. Realising that the notice given is not adequate, he sent further letter on 25.9.1989 requesting that he be retired from 30.9.1989 instead of 30.8.1989. This matter was considered by the respondents who, by their order dated the 26th September, 1989 informed that the competent authority has accepted the notice of voluntary retirement with effect from 30.9.1989.

3. On the same date, i.e. 26.9.1989, the applicant sent another letter to the 1st Respondent under Rule 48 of Pension Rules withdrawing the notice dated 29.6.1989 seeking voluntary retirement. This application was not recommended by the Commander under whom he was working and finally, by the Annexure-6 order dated 3.10.1989, the respondents intimated that the notice of voluntary retirement has already been considered and accepted and that the applicant has retired w.e.f. 30.9.1989. That authority also considered the request for withdrawal of the voluntary retirement, and consequently the request for withdrawal was rejected. It is in these circumstances that this O.A. has been filed.

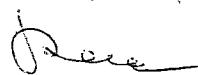
4. The respondents have filed the reply stating that the applicant was informed of his transfer to Visakhapatnam in advance by his superior officer but, instead, the applicant chose to seek voluntary retirement. We are of the view that the applicant had known well in advance about his transfer to Visakhapatnam and accordingly the notice of voluntary retirement was given by the applicant. In the circumstance, the respondents were fully justified in accepting the notice by the Annexure-2 order dated 26.9.1989.

5. Rule 48(2) of the CCS(Pension) Rules, 1972 provides that the notice of voluntary retirement served under this rule may be withdrawn with the permission of the competent authority. In the circumstance, the respondents considered the request made by the applicant and found that it was not submitted for any convincing reasons. Accordingly, the prayer for withdrawal of the notice for voluntary retirement was rejected.

6. In our view the applicant had taken a deliberate decision to seek voluntary retirement primarily to avoid

his transfer to Visakhapatnam. That was accepted on 26.9.1989, well in time i.e. before the retirement was to be operative from 30.9.1989. If the notice of retirement had been withdrawn before it was accepted, the applicant might have had a case. As it is, he gave that notice to his superior only on 26.9.1989. On that date itself, the competent authority had already accepted the retirement. There are two other points. Surprisingly, as late as on 25.9.1989 (Annexure-1) the applicant requested that the intended date of retirement given in his notice dated 29.6.89 (i.e. 31.8.89) should be modified and he be retired from 30.9.1989. It is, therefore, baffling that on the very next day i.e. 26.9.1989 he should seek withdrawal of the notice dated 29.6.89 and the amendment made on 25.9.89. ~~seeking~~ <sup>Secondly</sup> the request for withdrawal does not state any reason at all.

7. In the circumstance, we find that the impugned orders are well justified. The O.A. has no merit and is dismissed. No costs.



(J.P. SHARMA)  
MEMBER(J)



(N.V. KRISHNAN)  
VICE CHAIRMAN(A)

'SRD'