

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(20)

O.A. NO. 2634 of 1991

New Delhi this the 14th day of December, 1995.

HON'BLE SHRI N. V. KRISHNAN, ACTING CHAIRMAN
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Prahlad Singh S/O Mange Lal,
R/O C-30, New Police Lines,
Kingsway Camp,
Delhi.

... Applicant

(By Shri S. K. Bisaria, Advocate)

-Versus-

1. Commissioner of Police, Delhi,
I.P. Estate,
New Delhi.

2. Dy. Commissioner of Police,
Headquarter (III),
Delhi.

... Respondents

(By Shri Surat Singh, Advocate)

ORDER (ORAL)

Shri N. V. Krishnan, Act. Chairman —

The applicant was an Assistant Sub Inspector in the Delhi Police. While so, his wife died on 6.4.1990 after leaving three minor children. Due to mental shock as well as the responsibility cast upon him and his difficulty in adjusting with the situation, the applicant submitted a letter dated 12.10.1990 requesting for voluntary retirement, after giving three months' notice, with the request that he be retired on the expiry of the notice period, that is, after 31.1.1991. It was accepted by the respondents and the applicant was retired with effect from 31.1.1991, Annexure-3.

2. The applicant shifted to Jodhpur where he made arrangements for the stay of his children and thereafter he found it necessary to come back to Delhi

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with his children. He, therefore, again applied to the competent authority to withdraw his request for voluntary retirement w.e.f. 31.1.1991. This was not agreed to and the applicant was informed by the Annexure-1 impugned letter dated 18.9.1991 that his request could not be acceded to. Hence, this O.A. has been filed for quashing the impugned orders with direction to the respondents to allow the applicant to withdraw his request for voluntary retirement. It is stated that the applicant, if reinstated, would still have a number of years to serve.

3. One of the main grounds raised in the O.A. is that in a similar case of Hanuman Singh, Inspector, such a permission was granted and he was reinstated even though he had earlier been permitted to retire voluntarily. The respondents have filed a reply stating that as the applicant's request for voluntary retirement had been accepted and acted upon, it was not possible to accede to his request. In the case of Hanuman Singh it was indicated that the initial order of retirement which was passed suffered from an irregularity in mentioning the position of rule under which he was retired and also that in his case he did not draw the pensionary benefits though sanctioned to him. The voluntary retirement was permitted to be withdrawn in the circumstances of that case as mentioned in their reply.

4. When the matter came up for final hearing, the learned counsel for the applicant produced for our perusal order in respect of ASI Daya Chand dated 19.7.1994 issued by the Ministry of Home Affairs wherein in a similar case, the notice for voluntary

retirement was permitted to be withdrawn subject to the conditions specified therein.

5. In this regard, the learned counsel for the respondents has submitted an additional affidavit. It indicates that Daya Chand had also sought voluntary retirement which was accepted and he proceeded on retirement on 1.8.1991. However, in 1992, he made an appeal to the Ministry of Home Affairs which was received in the Police Headquarters for sending a report. Based on that report, the Government initially rejected the request of Daya Chand. However, he made an appeal to the President of India for reinstatement on the basis of which the matter was re-considered and an order dated 12.9.1994 was passed and he was ordered to be reinstated subject to fulfilling such conditions mentioned therein.

6. We have heard the learned counsel for the parties. The learned counsel for the applicant submits that in view of the two preceding cases of Hanuman Singh and Daya Chand, the respondents ought not to have rejected his application. The learned counsel for the respondents submits that Hanuman Singh's case was clearly distinguishable as mentioned in the reply and Daya Chand's case was one in which action was taken at the instance of the Ministry of Home Affairs to whom he had made a representation.

7. We have carefully considered the matter. In so far as the applicant is concerned, his case has been rejected by the order dated 18.9.1991. The details as given in reply to para 4 (i) of the O.A. in respect of Hanuman Singh's case show that, in material respect, that case is different.

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8. Daya Chand submitted an appeal to the Ministry invoking the power of relaxation under Rule 88 of the C.C.S. (Pension) Rules, 1972. That Rule vests powers in the competent authority, if satisfied, for reasons to be recorded in writing, that if the operation of any of the rules causes hardship in any particular case, it could dispense with or relax that rule. Therefore, Daya Chand referred the matter to the Ministry of Home Affairs and the ultimate order was passed by the Ministry of Home Affairs.

9. In this view of the matter, we are satisfied that while the respondents cannot be faulted ~~with~~ in issuing the impugned order, the proper course for the applicant is to submit a representation to the Ministry of Home Affairs, as was done by Daya Chand.

10. We, therefore, permit the applicant to submit to the 1st respondent a representation addressed to the Ministry of Home Affairs in which he can put up his case, including the preceding ^{ent} case of Daya Chand, within a period of one month from the date of receipt of this order. In case such a representation is received, the 1st respondent is directed to forward it along with his comments through the proper channel to the Ministry of Home Affairs and we direct that final orders in this case shall be passed only by the Ministry of Home Affairs within a reasonable time.

11. Accordingly, the O.A. stands disposed of. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

N. V. Krishnan
(N. V. Krishnan)
Acting Chairman
(4/2/95)

/as/