

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A.No. 279/91

Date of decision 9/11/92

Shri C. R. Sinha ... Applicant

v/s

UNION OF INDIA & ... Respondents
ANOTHER.

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Mr. I.P. Gupta, Member (A)

For the applicant ... Shri Ajit Puddisery, counsel

For the Respondent ... Shri J.C. Madan, counsel.

(1) Whether Reporters of local papers may be allowed to see the judgement ?

(2) To be referred to the reporter or not ?

JUDGEMENT

DELIVERED BY HON'BLE SHRI I.P. GUPTA, MEMBER (A)

In this application filed under Section 19 of the Administrative Tribunal Act, 1985, the applicant has requested for quashing of the notification dated 24th October, 1991 permitting the applicant to retire voluntarily from Government service with

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effect from 28th February, 1991.

2. The applicant by his letter dated 28th November 1990 (Annexure A-13) requested for grant of voluntary retirement from 30th November, 1990 to allow him to have a peaceful retired life from 1.12.1990. By letter dated 9th October, 1991 (Annexure A-26) he withdrew the notice of voluntary retirement. By letter dated 24th October, 1991 his voluntary retirement was accepted from 28.2.1991.

3. The short point involved in this case is whether the notice for voluntary retirement should be taken as withdrawn vitiating the notification dated 24.10.1991. The Learned Counsel for the applicant quoted several cases to prove the point that notice for voluntary retirement could be withdrawn any time before acceptance.

4. The Learned Counsel for the respondents drew our attention to FR 56(k)(i) which reads as follows :-

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" Any Government servant may by giving notice of not less than three months in writing to the appropriate authority retire from service after he has attained the age of fifty years if he is in Group 'A' or Group 'B' service or post (and had entered Government service before attaining the age of thirty-five years), and in all other cases after he has attained the age of fifty-five years."

5. It will be seen from the above that a Government

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servant may, by giving notice of not less than three months, retire from service. If three months have elapsed the Government servant can retire, without any acceptance or otherwise of his notice for voluntary retirement. Therefore, under the conditions of his service, the applicant by his own unilateral act of tendering resignation give up his office. The three months period in this case expired on 28.2.1991 and, therefore, it was not left open to the applicant to withdraw his resignation after 28.2.1991.

6. A prospective resignation can be withdrawn at any time before it becomes effective and it becomes effective when it operates to terminate the employment or the office tenure of the resigner. In the case of a Government servant who cannot under the conditions of his service by his unilateral act of tendering resignation give up his service, normally the resignation becomes effective when it is accepted by the competent authority. In this case, however, the rule FR 56(k)(1) enables a Government servant to retire unilaterally by giving adequate notice of three months. In this case the period

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given by the applicant was short but the respondents effected the retirement only on expiry of three months. The emphasis is on the words 'retire from service' in FR 56(k)(i) and on expiry of three months there is severance of link unilaterally even though the resignation is not accepted formally by the Government. The applicant has not also worked in office after 28.2.1991 though the Counsel for the applicant contends that he had been on leave. In our view the link between the applicant and his office snapped on expiry of three months of his notice i.e. ^{on} 28.2.1991 and by a subsequent letter given by him as late as 9th October, 1991, ^{he} could not withdraw his notice of voluntary resignation.

7. The application is, therefore, dismissed with no order as to costs.

I.P. Gupta
I.P. Gupta 9/11/92
Member (A)

Ram Pal Singh
Ram Pal Singh
Vice-Chairman (J)