

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. 2967/91

Date of decision:

7/14/92

V.B.Gupta

.. Applicant.

Versus

Union of India & others .. Respondents.

Sh.G.D.Bhandari

.. Counsel for the applicant.

Sh.P.P.Khurana

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

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

J U D G E M E N T (ORAL)

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has requested for quashing the respondents' letter dated 30.11.91, rejecting the request of the applicant for withdrawal of notice of voluntary retirement given on 20th August, 1991 (annexure A-11). It appears that the applicant had been sending notices for voluntary retirement from time to time right from July, 1990 and changing the dates from which he was seeking voluntary retirement. By letter of 16.7.90 he sought retirement from 1.2.91. By letter of 28.9.90 he sought retirement from 1 July, 1991. On 21.2.91 he withdrew his notice for retirement saying that in view of change of circumstances and likely promotional prospects and other domestic reasons he was withdrawing the notice. On 12.8.91/20.8.91 he again gave notice for voluntary retirement from 1st December, 1991. The respondents, by their letter dated 23.10.91 (annexure A-16) acceded to the request of the applicant for voluntary retirement and said that he would be relieved of his duties from 1.12.91.

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2. The short contention of the learned counsel for the applicant is that the withdrawal of notice was done by communication dated 1.11.91 and the date of voluntary retirement, according to this notice was 1.12.91. Therefore, the withdrawal was done before the expiry of the date of notice i.e. 1.12.91. He contended that the applicant had not snapped his links with the Government before 1.12.91 and therefore, he could withdraw<sup>a</sup> his intention to retire and he gave the reasons also for such withdrawal by saying that there were changes in the family circumstances and because of likely promotional prospects. In this connection he quoted the case of Balram Gupta Versus Union of India (AIR 1987 S.C. 2354) where it ~~where it~~ was held that the order allowing to retire prospectively on expiry of notice period without allowing withdrawal of notice, was illegal.

3. The learned counsel for the respondents strenuously argued that the pleadings will show that the applicant had been in the habit of giving frequent notices for voluntary retirement and withdrawing them. He drew our attention to references in this regard. He also said that his notice of withdrawal was duly considered at the appropriate level and it was decided not to allow him to withdraw. However, the pleadings do not show that anything was communicated to the applicant. In the absence of any communication it cannot be presumed that the notice for withdrawal was not approved. In any case disapproval of notice for withdrawal is not ipse dixit of the approving authority; reasons have to be quoted therein.

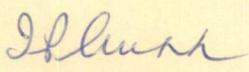
4. The law on this point having been well settled, the order dated 23.10.91, retiring the applicant voluntarily from 1.12.91 is set aside on the ground that he

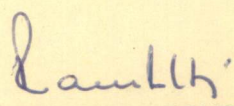


had withdrawn his notice for voluntary retirement prior to 1.12.91, which is not disputed and more so when there is nothing on record to show that the withdrawal of notice by him was disapproved.

5. In the conspectus of the above said facts, the applicant should be put <sup>back</sup> in his post. He should be treated as having continued in the post from 1.12.91 onwards. However, we are not inclined to allow any back wages for the period on the principle of 'no work no pay' and in ~~the~~ consideration of the fact that the applicant himself has been giving frequent notices for voluntary retirement and withdrawing them, thereby causing inconvenience to the respondents and it cannot be said at this stage that for no fault of the applicant he was retired.

6. With the aforesaid direction and order the case is disposed of with no order as to costs.

  
( I.P.GUPTA )  
MEMBER(A)

  
(RAM PAL SINGH)  
VICE CHAIRMAN(J)