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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-374/91

Date of decision: 07.07.1992

Shri C.B. Vyas Applicant

Versus

Union of India & Anr. Respondents

For the Applicant Shri B.B. Raval, Counsel

For the Respondents Shri A.K. Sikri, Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

This application was filed by Shri Vyas while working as Administrative Officer, Indian Agricultural Research Institute (I.A.R.I.). At the time of filing of the application on 8.2.1991, he was aged about 57 years. By now, he would have retired from Government service on attaining the age of superannuation had he continued in service. He is aggrieved by the impugned order dated 1.2.1990 issued by the Indian Council of Agricultural Research, a copy of which was endorsed to the I.A.R.I.

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and to the applicant on 13.2.1990, whereby the Director General, I.C.A.R. accepted the notice for voluntary retirement of the applicant from service under the provisions of Rule 48 of the C.C.S. (Pension) Rules, 1972 and allowed him to retire from service of the I.C.A.R. w.e.f. 4.4.1990. He also approved the regularisation of the period of absence of duty of the applicant by grant of leave due to him till 4.4.1990. He has also challenged the validity of the memorandum dated 31.3.1990 issued by the I.A.R.I., whereby the accommodation allotted to him by the I.A.R.I. was cancelled w.e.f. 5.8.1990 consequent upon acceptance of his voluntary retirement w.e.f. 4.4.90.

2. The reliefs sought in the present application are the following :-

(i) to quash the order accepting the conditional notice of retirement and retiring the applicant from service w.e.f. 4.4.1990 as void ab initio illegal, arbitrary and mala fide; and

(ii) direct the respondents to allow him to complete the remaining portion of his service of less than a year and a half at Delhi only and retire thereafter on attaining the age of superannuation in 1992.

3. By way of interim relief he had sought for a direction to the respondents not to dispossess him of the

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Government accommodation during the pendency of the present application.

4. When the application came up for admission on 12.2.1991, the Tribunal passed an interim order to the effect that the respondents shall not dispossess the applicant of Government quarter No. 14, IARI, Pusa, New Delhi-110012 subject to his liability to pay licence fee, etc., in accordance with the rules. The interim order has been continued till the case was finally heard on 4.6.1992 and judgement reserved thereon.

5. The only question arising for consideration in the instant case is whether the notice of voluntary retirement submitted by the applicant is a conditional one or unconditional one. According to the applicant, it is a conditional notice for voluntary retirement. The respondents contend that it was an unconditional notice.

6. The notice dated 5.1.1990 given by the applicant to the respondents regarding his voluntary retirement reads as follows:-

"As my health does not permit me to continue in the I.C.A.R. service any more, I hereby seek voluntary retirement from service for which this may kindly be treated as three months' notice.

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It is requested that necessary orders in this regard may kindly be issued at the earliest so that I am able to submit my pension and other papers for the drawal of my pension and other retirement benefits."

7. A plain reading of the aforesaid notice indicates that it is an unconditional one. However, on the same day the applicant submitted a representation to the respondents wherein he had stated that his transfer to a very far off place in the South had complicated further his health position and, therefore, requested them that the matter may be reviewed again. He added that if his request for retention in service in Delhi in spite of his acute health problem and the RML Hospital Specialist's report is not agreed to, then he has no other option but to seek voluntary retirement for which necessary orders may be issued at the earliest as his health did not permit him to face the very cold climate at Dehradun also. He concluded his representation by stating that "A separate letter giving three months' notice for retirement from service is also enclosed for further action."

8. It is pertinent to mention that the notice for voluntary retirement submitted by the applicant on 5.1.90, does not make a reference to the representations submitted by him on the same day.

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9. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The applicant joined service of IRAI as L.D.C./Junior Clerk in 1955. Thereafter, he was promoted as U.D.C./Senior Clerk in 1963 as Head Clerk/Assistant in 1966, as Superintendent in 1970, as Superintendent Grade I in 1972, as Assistant Administrative Officer in 1972, and as Administrative Officer in 1977. All these years, he had been posted at Delhi. From 1979 to 1990, the applicant had been transferred on promotion as Senior Administrative Officer on four occasions but he had declined to be posted outside Delhi due to personal reasons. He had to forgo promotion each time. The places to which he had been transferred on promotion as Senior Administrative Officer were the following:-

(i)	26.10.1979 Rajamundri
(ii)	9.2.1982 Cochin
(iii)	21.6.1982 Simla
(iv)	18.8.1986 New Delhi at Indian Agricultural Statistical Research Institute; and
(v)	21.6.1988 Nagpur.

10. On 6.4.1989, the applicant was transferred as Administrative Officer to Central Soil Water Conservation Research and Training Institute, Dehradun. He did not comply with the order of transfer and made representations

to the respondents against the proposed transfer. He was relieved w.e.f. 18.7.1989 so as to enable him to join his posting at Dehradun.

11. On 31.7.1989, the Administrative Officer of the Central Soil and Water Conservation Research & Training Institute, Dehradun, wrote to the Director, IARI with a copy to the applicant stating that the applicant who has already been relieved from Delhi, may be instructed to report for duty as Administrative Officer at Udhagamandalam, Tamil Nadu. The respondents have stated in their counter-affidavit that the Administrative Officer of the said Institute had no authority or competence to do so, and the said Institute was informed accordingly.

12. The basic stand of the applicant is that he had forgone the promotions offered to him on several occasions due to the health problems of himself and his family members. The applicant had produced a medical certificate from RML Hospital, according to which, he is a patient of Angina. The doctor had advised that he be allowed to stay at Delhi for continuous and proper treatment. The contention of the respondents is that proper facilities are available at Dehradun and that they are not bound by the advice given by the doctor of the RML Hospital.

13. In the above factual background, it cannot be categorically stated that the applicant had chosen this

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step in the normal course. He had his own personal reasons to remain in Delhi at any cost. In this view of the matter, even if the representation dated 5.1.90 were to be read together with the notice for voluntary retirement submitted by him, it cannot be concluded that the acceptance of the notice of the voluntary retirement is vitiated on the ground that it is a conditional one. The applicant has at no stage stated that he would be willing to join at Dehradun pursuant to the order of transfer issued to him. The position would have been otherwise had the applicant indicated his willingness to join at Dehradun at any point of time. There is nothing on record to indicate such willingness on his part.

14. In the light of the foregoing, we see no merit in the present application. The interim order passed on 12.2.1991 and continued thereafter, will cease to be in operation from 1st September, 1992. There will be no order as to costs.

Salve
(I.K. Rasgotra)
21/3/92
Administrative Member

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7/7/92
(P.K. Kartha)
Vice-Chairman (Judl.)