

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2256 OF 2004

New Delhi, this the ~~24th~~ day of October, 2005

HON'BLE SHRI M.K. MISRA, ADMINISTRATIVE MEMBER

Shri Satish Kumar aged about 44 years
S/o Shri Jagdish Sahay
R/o DDA 140 South Enclave,
Dakshinpuri Extn,
New Delhi-110062.

.....Applicant.

(By Advocate : Shri Surinder Singh)

Versus

1. The Secretary,
Central Vigilance Commission,
I.N.A. Colony,
New Delhi-11 0023.

2. Shri Mange Lal
Deputy Secretary (Admn.)
I.N.A. Colony,
New Delhi-23.

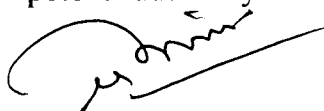
.....Respondents

(By Advocate : Shri R.V. Sinha with Shri R.N. Singh)

O R D E R

The applicant - Shri Satish Kumar, an employee of Central Vigilance Commission (CVC), working as Staff Car Driver, has filed this OA for issuance of direction to the respondents to allow him to join duties forthwith with all consequential benefits including arrears of salaries since July 2003 till date.

2. Briefly the facts of the case are that the applicant got involved on 11.4.2001 in a case of putting fire to a house in Prem Nagar, New Delhi. He was, therefore, arrested on 16.9.2003 by the Police which resulted in suspension from the job. The suspension order was revoked on 1.5.2004 after his acquittal by the Court on 19.4.2004. The problem started on account of his acute depression and malafide advice by the respondent no.2 with regard to seeking voluntary by him vide application dated 30.7.2003. Such application for voluntary retirement was accepted by the competent authority and his voluntary retirement became



effective from that date i.e. 30.7.2003. The claim of the applicant is that before his application for voluntary retirement was accepted, he filed another application for withdrawal of the same on 11.8.2003 exactly after eleven days from the date of submission of application for voluntary retirement. The withdrawal application was not considered by the respondents and they accepted his request for voluntary retirement without giving any thought to his withdrawal application. Hence this OA.

3. Learned counsel of the respondents submitted at the very outset that the present OA is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985, as the cause of action arose in 11.8.2003 and the OA was filed on 16.9.2004 that is beyond one year from the date when cause of action arose.

4. On hearing the learned counsel for the applicant explaining the cause of delay of about one month, I am convinced that the delay can be condoned. Accordingly, the delay stands condoned.

5. Another submission made by the learned counsel for the respondents that they did not receive any withdrawal application of voluntary retirement dated 11.8.2003. Therefore, such application was not considered. The respondents were also produced record to indicate that no such application was ever received by the respondents. It was also averred by the learned counsel for the respondents that there was no malafide advice given to the applicant for submission of application dated 30.7.2003 seeking voluntary retirement. It was further averred that the application dated 11.8.2003 for withdrawal of application of voluntary retirement enclosed with the OA does not bear the original seal of receipt by the respondents. It is only a photocopy of the seal. The applicant has already been voluntarily retired w.e.f. 30.7.2003. Therefore, he is no more an employee of the CVC and hence question of making payment of salary from July, 2003 till now does not arise.



6. I have considered the averments made by the learned counsel for the parties and also perused the material available on record.

7. It is observed that the admitted facts are that the applicant submitted an application for voluntary retirement on 30.7.2003 before the concerned respondent. It is also an admitted fact that the same was accepted and the applicant retired voluntarily w.e.f. 30.7.2003. The only dispute is that his application for withdrawal of application for voluntary retirement dated 30.7.2003, which was filed on 11.8.2003, was not considered by the respondents although, the order of voluntary retirement was passed after 11.8.2003. In lieu of proof of submission of such application before the concerned respondents a copy of the same which bears only the photocopy of the seal for receipt of such application was enclosed along with the O.A.,^{me} whereas it should have contained the original seal on photocopy of the original application of withdrawal of application of voluntary retirement. This fact is the essence of the entire gamut in the sense that the respondents are vehemently denying this fact of having received any such application from the applicant. For this purpose, receipt register was also produced before this Tribunal during the course of hearing and it was observed that no such application appears to have been received by the respondents. In the absence of any conclusive proof in this regard submitted by the applicant, the contention of the applicant cannot be accepted. Therefore, it cannot be said that the respondents passed the order for voluntary retirement after 11.8.2003 with the prior knowledge of the application having been submitted by the applicant.

8. In the result, OA is sans merits and hence it is dismissed with no order as to costs.


(M.K. MISRA)
MEMBER (A)