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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. 730 of 1992

Date of decision 17.7.92.

B.C. Baurai

Applicant

Shri K.L. Bhatia,

Counsel for the applicant

vs.

Union of India

Respondents

Shri P.H. Ramchandani,

Sr. Counsel for the respondents

CORAM

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

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

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

JUDGMENT

The applicant was appointed in Defence Accounts Department by the Controller General of Defence Accounts as Upper Division Clerk (now designated as Auditor). The applicant was promoted to Selection Grade Auditor in 1979 and was transferred from the Office of the C.D.A. (A.F.), Dehradun, to the office of the L.A.O. (Air Force) 'A', New Delhi, and joined his duties on 4.4.1985. The applicant made a request by his letters dated 19.6.91 and 22.7.91 seeking voluntary retirement with effect from 30.9.91. Then subsequently, he wanted to withdraw these applications and in the end on 22.10.91 he filed another application before the C.D.A. (Air Force) that he has never applied for the withdrawal of the applications dated 19.6.91 and 22.7.91 seeking voluntary retirement. In

Lamlih consequence, the respondents have vide Annexures V and VI dated

29.7.91 and 22.10.91, they advised the applicant to withdraw his applications, but the applicant persisted. Hence, the respondents on 16.12.91 (Annex. X) accepted the request of the applicant and under Rule 48 (A) of the C.C.S. (Pension) Rules of 1972 directed him to proceed on voluntary retirement with effect from 16.12.91.

The applicant again became aggrieved by this order at Annex. X and preferred an appeal to the Defence Minister vide Annex. XI

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act of 1985 praying for the reliefs:

- (i) to set aside the order passed by Respondent No. 3 on 17.12.91;
- (ii) pass orders for payment of applicant's pay and allowances from 17.12.91;
- (iii) pass orders for reposting of the applicant back to the office of the L.A.O. (Air Force) 'A', New Delhi.

The applicant has not sought any relief for setting aside the impugned order at Annex. 'X' dated 16.12.91 by which he was directed to be retired voluntarily on his own request.

2. The respondents on notice appeared and contended that the applicant had sought voluntary retirement from service. It was twice rejected because the request was made in an indirect manner and had mentioned certain conditions. He was, therefore, asked to withdraw his prayer for voluntary retirement. They also contended that the applicant submitted letter dated 16.9.91 withdrawing his prayer for voluntary retirement and the respondents allowed him to withdraw it, but the applicant reacted sharply to this and submitted an application dated 22.10.91 wherein he denied to have withdrawn his original applications dated 19.6.91 and 22.7.91 regarding his voluntary retirement. Thus, he revived his prayer for voluntary retirement which was considered and accepted by the competent authority. They also maintained that after the order was passed on 16.12.91, the applicant received his leave encashment money of Rs. 7,125.00 on 28.1.92. He also accepted his insurance amount of Rs. 3294.

They also contended that the applicant has taken the amount of Provident Fund of Rs. 20,250.00. Thus, their stand is that the appli-

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applicant had filed application praying therein for his voluntary retirement. Then, the applicant again filed another application for his retirement on medical grounds. Then, subsequently, by his letter dated 22.10.91, he ^{denied} that he had ever withdrawn his request for voluntary retirement made in his applications dated 19.6.91 and 22.7.91.. Thus, their stand is that when the applicant persistently revived his request for voluntary retirement, it was accepted. One application was for voluntary retirement and the other ^{for retirement} on medical grounds. Both the applications were considered by the competent authority and the prayer for voluntary retirement was accepted while prayer for retirement on medical grounds was rejected. They have also contended that the prayer for voluntary retirement was made voluntarily by the applicant.

3. We have heard Shri K.L. Bhatia, learned counsel for the applicant who has rendered free legal aid to the applicant. We appreciate his magnanimous gesture. We have also heard Shri P.H. Ramchandani, Sr. Counsel for the respondents, in great detail.

4. On perusal of all the documents, we are satisfied that the applicant of his own volition had prayed for voluntary retirement from service. The acts of accepting subsequent payments of leave encashment, insurance amount and Provident Fund amounts also indicate that the applicant had voluntarily sought retirement from service. The applications filed by him throw some light on the subject that the service was not congenial either to his mental health or to his mental peace. Hence, his prayer in the O.A. cannot be granted after the respondents passed orders at Annexure 'X' on 16.12.91 retiring the applicant voluntarily from service. This O.A. is bereft of any merit and is, therefore, dismissed with no order as to costs.

5. During the pendency of this O.A., the applicant by MP No. 1001/92 prayed for staying his eviction from Government accommodation No. 217/3, Andrews Ganj, New Delhi. This Bench passed an order restraining the respondents from evicting the applicant from the Government accommodation till the disposal of the O.A. As

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we have dismissed this O.A., this interim order automatically stands vacated.

6. Before parting, we hope that the ^{existing} ~~retiral~~ benefits which are due to the applicant would ^{also} be paid by the respondents as early as possible. No order as to costs.

I.P.Gupta 17/1/92
(I.P. GUPTA)

MEMBER (A)

Ram Pal Singh 17.7.92
(RAM PAL SINGH)

VICE-CHAIRMAN (J)