

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA.1161/93

Date of Decision: 22.6.93

Shri J.N. Manglik

Applicant

Vs.

Union of India

Respondents

Shri D.S. Chaudhary

Counsel for the applicant

Shri R.R. Bhasti

Counsel for respondents

JUDGEMENT(Oral)

(delivered by Hon.Member(J) Shri J.P. Sharma)

Heard the learned counsel for the applicant at length. Shri J.N. Manglik was ~~at~~ last engaged as UDC at Central Revenue Control Laboratory, Pusa, New Delhi. He reached the age of superannuation, ie 58 years on 31.1.93. The present application has been filed under section 19 of the Administrative Tribunal Act, 1985 on 25.5.93, in which, the applicant appears to be aggrieved by the inaction of the respondent No.2 in relieving the applicant consequent upon his retirement on superannuation w.e.f. 31.1.93. In para-8 of the relief, the applicant has prayed for:

(a) He be treated on duty till such time he is formally relieved by the respondent.

(b) He be permitted to retain the Govt. Accommodation on normal rent till such time he is formally relieved and all his accounts are finally settled and dues are paid to him including leave encashment with interest.

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(c) All the aforesaid amounts i.e. the salary after 31.1.93 and licence fee in respect of Govt. Accommodation after 31.3.93 be recovered from the salary of the respondent No.2.

(d) Allow the costs of the proceedings.

A notice was issued to the respondents and the learned counsel Shri R.R. Bhavti appeared and filed a short reply dated 8.6.93.

I have heard the learned counsel for the applicant at length. The learned counsel for the applicant referred to Rule 74 of the CCS(Pension Rules) 1972, where it is laid down that when a Government servant retires then an office order shall be issued specifying the date of retirement. The learned counsel also referred to the fact that the applicant had not been relieved from his erstwhile posting as UDC and in view of the fact that he should be deemed to be in continuous service of the respondents. The learned counsel for the applicant also argued that certain retirement /terminal benefits like leave encashments has also not been paid. After submission of his arguments at considerable length, the learned counsel also desired to amend this application by making an oral submission. The learned counsel for the respondents opposed the admission of the application on the ground that it is not only misconceived but the applicant is not entitled to any of the reliefs by virtue of his having accepted DCRG in full satisfaction of the claim of that account.

That fact is not disputed. Secondly the retiree cannot be expected to blow hot and cold together. When once he has accepted the DCRG amount in full satisfaction of the claim, it appears inconceivable even to think that he continues in service. FR 56(A) clearly lays down that every Government servant shall retire from service on the afternoon of the last date of the month in which he attains the age of 58 years. It is not disputed by the learned counsel, Shri Chaudhary, that the application is not governed by the proviso or FR 56(a). Any argument, therefore, to ~~nullify~~ ^{liquidate} the contents of the aforesaid proviso is untenable and cannot be accepted. When the applicant ~~has~~ ^{is} retired from service, he has no locus standi to retain the Government accommodation beyond the period normally allowed to retiree. There is no prayer that the applicant be granted leave encashment etc.

I have considered the oral submission of the counsel for seeking amendment but it is not as a matter of right that a failing cause may be survived by a meek voice of amendment. In view of the above facts the circumstances of the case, the present OA is dismissed at the admission stage itself leaving the parties to bear their own costs.

J. P. Sharma

(J.P. SHARMA)

MEMBER(J)

22.06.1993