

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 26th DAY OF MAY 1997

Original Application No. 1083 of 1996

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Jai prakash Agrawal,
Son of late Shri Hargulal
S.G., R.S.A
150, New Market, Begum bagh
Meerut.

Applicant

By Advocate Shri A.N. Ambasta
Versus

1. Union of India , through its Secretary
Department of Tele Communications
New Delhi
2. The Chief General Manager,
Northern Telecommunications Region
Kidwai Bhawan, New Delhi- 110 001
3. The Assistant General Manager
(Vigilance) Office of Chief
General Manager, Anurakchan,
Northern Tele communication Region
New Delhi
4. The General Manager Telecom(Staff)
Uttar Pradesh, Lucknow.

Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

This OA came up for orders as regards admission. We have heard the learned counsel for the applicant. From the facts indicated in the OA it appears that the applicant who was working as R.S.A in the Department of Tele Communication submitted an application seeking voluntary retirement w.e.f. 22.2.82 but by that time he had not attained the age of 55 years. He was to attain the age of 55 years in November 1982. The G.M.T, U.P. Circle Lucknow therefore decided that since the applicant had not performed his duty the period may be treated as period of notice in absentia.

B.C.S.

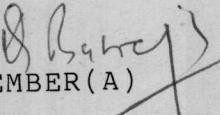
and he may be retired voluntarily w.e.f. 30.11.82. It was also provided that since the applicant has not performed the duties he should be granted leave as due to him during his period of absence w.e.f. the date he has not been attending office upto 30.11.82 the date on which he became 55 years of old and eligible to be retired voluntarily. The applicant's case is that he was never informed or communicated the order dated 15.3.85. This has been made available to him by the Senior Accounts Officer's letter dated 13.6.96. The learned counsel for the applicant laid great stress on this aspect that the applicant had sought voluntary retirement but he was not informed of the decision on his representation seeking voluntary retirement. The order passed in 1985 was communicated to the applicant in 1996.

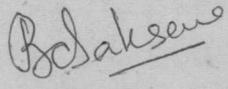
2. We put it to the learned counsel for the applicant to indicate the date upto which the applicant worked and has not been paid salary thereafter. The learned counsel avoided a straight answer and only repeated his submission that the order passed in 1985 was communicated in 1996. Absence from duty and non payment of salary clearly clinches the issue. Evidently, the applicant has not been paid his salary. Since he has been absent even earlier November 1982. The claim that he should be treated to have retired on attaining the age of superannuation in 1985 is clearly untenable. The learned counsel for the applicant also was not in a position to indicate any good ground for having approached the Tribunal after almost 13 years. The learned counsel only repeated

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his submission that the order passed in 1985 was not communicated to the applicant. It was only communicated on 13.6.96. The fact remains that the cause of action if any accrued to the applicant even prior to November 1982 when he sought voluntary retirement. The applicant cannot be permitted to ignore the same and to plead that he should be treated to be continuing in service till he attained the age of superannuation viz 58 years. There is no merit in the PA it is summarily dismissed both on merits and because of being highly barred by limitation.


MEMBER (A)


VICE CHAIRMAN

Dated: May 26th 1997

Uv/