

OPEN Court

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Dated: This the 16TH day of October 1996

Hon'ble Mr. S. Das Gupta A.M.
CORAM : Hon'ble Mr. T. L. Verma J.M.

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ORIGINAL APPLICATION NO. 750/96

Madan Mohan Lal Jain aged about
55 years, son of Sri Sohan Lal Jain,
resident of 60-Subzi Mandi, Khurja
District Bulandshahar - - - - - Petitioner

C/A Sri R. K. Nigam

VERSUS

& Auditor

1. Union of India through Comptroller/General of India, 10- Bahadurshah Zafar Marg, New Delhi.
2. Comptroller and Auditor General of India Bahadurshah Zafar Marg, New Delhi.
3. Director General of Audit, Defence Services, L-2 Block Bressy Avenue, New Delhi-1.
4. Principal Director of Audit, (Ordnance Factories), 10-A Auckland Road, East Wing, 8th Floor, Calcutta-1.

5. Sri A. K. Menon, the then Director General of Audit Defence Services, New Delhi (through Comptroller & Auditor General of India, 10-Bahadurshah Zafar Marg, New Delhi.
6. Sri A. K. Thakur, the then Director of Audit, Defence Services (HQRS) through Comptroller and Auditor General of India, 10- Bahadurshah Zafar Marg, New Delhi.
7. Sri K. Manjeet Singh, the then Director of Audit, Defence Services W. C. Chandigarh, through Comptroller and Auditor General of India, 10-Bahadurshah Zafar Marg, New Delhi.
8. Sri A. N. Chatterjee, the then Principal Director of Audit, (Ordnance Factories), through Comptroller & Auditor General of India, 10-Bahadurshah Zafar Marg, New Delhi. - - - - - Respondents

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ORDER (ORAL)

By Hon'ble Mr. S. Das Gupta A.M.

This application has been filed under section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to reinstate the applicant as Senior Audit Officer, Defence Audit services with all consequential benefits.

2. The facts averred in the O. A. discloses that the applicant was transferred from Chandigarh to Calcutta against which he represented and after his representation was not considered, he approached the Chandigarh bench of the Tribunal by filing O.A. No. 490/90. The said O.A. was dismissed with the observation that the respondents should consider the representation of the applicant. Since/thereafter, the transfer of the applicant was not cancelled, the applicant finally joined his new place of posting at Calcutta. Subsequently, he submitted a representation to the respondents, stating difficulties, he was facing in Calcutta and also ~~because his~~ ^{stating that if} request of transfer back to Chandigarh could not be accepted, his request for voluntary retirement be considered. In reply to this representation, the respondents informed him that his request for transfer from Calcutta could not be accepted at that stage and in case he wants to retire voluntarily, he should submit unconditional letter making such request. It appears that subsequently the applicant submitted a letter for voluntary retirement and the same was accepted and the application was voluntary retired with effect from 29.3.1994. order of the same date. The applicant has now

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the aforesaid Voluntary retirement on the ground that he was virtually ~~had~~ forced to seek voluntary retirement as a result of malafide on the part of the respondents in not accepting his request for transfer ~~from~~ Calcutta.

3. We have heard learned counsel for the applicant and perused the pleadings.

4. Had the applicant been voluntary retired on the basis of earlier letter dated 30.4.1991 (annexure A-6), we could have certainly interferred in the matter as the request for voluntary retirement was hedged in several ~~con-~~ ^{clear} conditions. It is, however, claimed that on the receipt of this letter and subsequent letter in a similar vein, the respondents informed the applicant by letter dated 10.3.1993 (annexure A-8) that his request for transfer to ~~Mercut~~ or to any other place like Delhi, Kanpur and Dehradun could not be accepted, ^{at present} but the request had been noted in the records of the Competent authority for consideration when administratively feasible. He was told that in case he wanted to retire voluntarily, he should submit a separate unconditional application for voluntary retirement in accordance with the rules. Thereafter the applicant submitted a letter dated 30.12.1993 (annexure A-10) in which he made an unconditional request for voluntary retirement from government service, indicating his personal problems. Respondents accepted the request and retired the applicant voluntary.

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5. Learned counsel for the applicant urged before us that malafide action on the part of the respondents in not ~~accepting~~ ^{accepting} the request of the applicant for cancellation of his transfer or posting to any place of his choice, forced him to seek voluntary retirement. We are unable to accept this. Whatever, be the chain of events, there is nothing on record to indicate that the applicant was forced to seek retirement. Respondents asked the applicant to seek retirement if he so desired, by filing un-conditional request. The applicant filed such a request in which only his problems have been indicated as reason for such request.

6. In this view of the matter, it cannot be said that the applicant was forced to retire. Govt. rules provide that if any govenment servant, who has put in 20 years pf qualifying service, makes a request for voluntary retirement, he has only to give three months notice and once his request is accepted, voluntary retirement becomes irrevocable.

7. Inview of this, we see no reasons to interefere in the matter. The application is, therefore, dismissed in limine as having no merit. Nothing in this order, would, however, preclude the respondents from considering the representations of the applicant dated 24.10.1995 (annexure 14) and dated 12.1.1996 (Annexure A-15), which ^{are} _h stated to be pending disposal.

J.M.
J.M.

A.M.
A.M.