

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 5th day of August 2003.

QUORUM : HON.MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON. MR. D. R. TIWARI, A.M.

O. A. No. 497 of 1997

S. C. Bhandari S/O Late Dr. A.D. Bhandari (Civil Surgeon),
aged about 50 years R/O 137, Civil Line, Bareilly, Ex-
Supervisor B/5 Grade-I deemed Voluntary Retired from CWE
office Station Road, Bareilly..... Applicant.

Counsel for applicant : Sri R.C. Pathak.

Versus

1. Union of India through the Defence Secretary, Ministry
of Defence, Govt. of India, South Block, New Delhi.
2. The Engineer-in-Chief, Engineer-in-Chief's Branch, Army
Headquarter, Kashmir House, New Delhi.
3. The Chief Engineer, Central Command, Lucknow.
4. The Chief Engineer Bareilly Zone, Sarvatra Bhawan, Station
Road, Bareilly Cantt.
5. The Commander Works Engineer, Station Road, Bareilly Cantt.
..... Respondents.

Counsel for respondents : Sri V. Gulati.

O R D E R

BY HON. MR. D. R. TIWARI, A.M.

By this O.A. filed Under Section 19 of the A.T.
Act, 1985, the applicant has prayed for a direction to
Respondent No.3 i.e. Chief Engineer, Central Command, Lucknow
to withdraw/cancel the transfer order dated 21.6.95 by which
he has been transferred to Gopakpur (Annexure-A-1) and to
direct the Respondent No.5 i.e. Commander Works Engineer,
Bareilly not to give effect to the order of voluntary retire-
ment dated 23.9.95 (Annexure-A-36).

2. The brief facts of the case are that the applicant
was appointed in Military Engineering service as Supervisor

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Barrack and Stores, Grade-II in the establishment of Garrison Engineer (Project), Bareilly. He was promoted as Supervisor Barrack and Stores Grade-I in 1988. Between July 1975 and June 1995, the applicant was transferred as many as seven times and he complied with all the transfer orders. In April 1995, he was ordered for posting to Gopalpur-at-sea. He represented against this order and sought the deferment of the order for one year as his widowed mother was bed-ridden. He further alleged that his transfer order was against the guide-lines issued by the Engineer-in-Chief, New Delhi and represented on 8.5.1995 to defer the order for one year. When the applicant did not get ^{any} response from Respondents, he applied for voluntary retirement on 31.5.95 under Rule 48A of CCS(Pension) Rules 1972, and gave three months' notice.

3. The respondents have contested the O.A. stating that posting order of applicant was due to exigencies of services and job requirement. However, the applicant did not comply ^{with} the same. The contention of the applicant that acceptance of voluntary retirement does not have the order of competent authority, is also misplaced, as the same has been accepted by the Chief Engineer, Central Command, who is a competent authority. The order of acceptance of voluntary retirement was also communicated to him on 23.9.95(Annexure-36). *Deia*

4. We have heard both the counsel, considered their submissions and perused the record.

4. There are two issues which are to be considered. The first issue relates to transfer of the applicant. The Second issue is for cancellation of order of voluntary retirement. It has been held by the Hon'ble Supreme Court repeatedly that the courts and tribunals should not normally interfere with the transfer/posting of the employees. At this stage, we see no reasons to interfere in the transfer

Deia

of the applicant. The second issue is for cancellation of the order dated 23.9.95 by which the voluntary retirement of the applicant w.e.f. 30.9.95 has been accepted by the competent authority.

5. Rule 48A(4) provides that the Government servant is precluded from withdrawing the voluntary retirement except with the specific approval of such authority which can be made before the intended date of retirement. It further provides that it may be withdrawn, if so desired for adequate reasons. The Hon'ble Supreme Court in the case of Balram Gupta Vs. Union of India & others, AIR 1987 SC 2354 confirms the above policy. In the instant case, notice for voluntary retirement was submitted on 31.5.95. The applicant has not given adequate reasons which could show that the material change has taken place in the circumstances. In any case, reasons would not have mattered as the notice for withdrawal was given after the intended date of retirement. The applicant applied for withdrawal of his voluntary retirement on 15.2.96, after three months period of limitation under the rules. During the course of the arguments, learned counsel for applicant has ~~assiduously~~ argued that his application for voluntary retirement required the approval of the competent authority i.e. the Engineer-in-Chief in this case. The respondents have contested this and stated that application for voluntary retirement was addressed to the Chief Engineer, Central Command, Lucknow through proper channel, which was forwarded to Chief Engineer, Central Command through departmental channel and was also communication to the applicant. It is also submitted that Engineer-in-Chief has delegated the power under Sub-Rule 1(9) of CCS(CCA) Rules 1965 (Annexure F-7 of the CA). It is common knowledge that such delegation of power under the rules are permissible in law. Hence the contention of the applicant has no relevance. ~~and rejected,~~

Noted

(19)

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6. For the reasons stated above, the O.A. is dismissed being devoid of merit.

There shall be no order as to costs.

A.M.
A.M.

V.C.
V.C.

Asthana/