

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad: Dated this the 1st day of July 1996

ORIGINAL APPLICATION NO. 1389 OF 1994

Hon'ble Mr. Justice B.C. Saksena V.C.

CORAM : Hon'ble Mr. S. Das Gupta. A.M.

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Chhotey Lal Son of Dhani Ram
R/O House no. 123 Sahararabagh,
Allahabad. Ticket no. 517 Fitter
H.S. Grade II, employed in 506 Army
Base Workshop, Jabalpur. - - - - - Applicant

C/A Sri D.K. Agrawal

VERSUS

1. Union of India, Defence Secretary,
Ministry of Defence, Govt. of India
New Delhi.
2. Director General of Electrical and
Mechanical Engineers, E.M.E. Directorate
Army Headquarter DHQ P.O. New Delhi.
3. Commandant HQ, Technical Group,
Delhi Cantt. 11 0010
4. Commandant, 506 Army base workshop,
Jabalpur. - - - - - Respondents

C/R Sri S. C. Tripathi.

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ORDER (ORAL)

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

Through this application filed under section 19 of the Administrative Tribunals Act,1985, applicant has challenged the order dated 27.5.1994 by which the respondents , while accepting the applicant's appeal for withdrawal of his request for voluntary retirement, had ordered that intervening period be treated as extraordinary leave without pay. The applicant has sought relief of quashing of the aforesaid order so far as it relates to the treating of the intervening period as absence from duty and granting of extraordinary leave without pay. He has further prayed that the respondents be directed to pay full wages for the intervening period from 31.12.1991 to 16.6.1994.

2. The applicant, who was a permanent Fitter H.S.Grade II in 506 Army Base Workshop, Jabalpur, submitted an application, seeking voluntary retirement from service on 28.11.1991 on the ground that he was upset on account of his family problems. However, before the expiry of three months from the date of his application for voluntary retirement, he submitted another application ~~for~~ on 31.12.1991 seeking withdrawal of his earlier application for voluntary retirement. The respondents, however, issued a communication to the applicant stating that his request for voluntary retirement had been accepted and he would stand retired on 29.2.1992. The applicant submitted several representations, requesting consideration of his application for withdrawal of the request of voluntary retirement, but as the representations did not elicit any response, he filed O.A., bearing no.1806 of 1992, which was disposed of by a bench of this Tribunal by order dated 14.2.1994 with a direction that the appeal of the applicant

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be considered and disposed of within a specified period . Respondents accordingly considered the application of the applicant and issued the impugned order dated 27.5.1994.

3. The applicant has challenged the aforesaid order on the ground that his absence from duty was only because he was kept away from joining his duties in the absence of any order on his request for withdrawal of his earlier request for voluntary retirement. It has also been argued that under the extant rules, the respondents could not have granted extra-ordinary leave in the present circumstances.

4. The respondents have filed counter affidavit, in which, it has been stated that the request of the applicant withdrawing his application for voluntary retirement was not acceded to by the competent authority as the circumstances, which were ~~undesirable~~ in the ~~change~~ have application had not undergone any ~~change~~ ^{change}. However, on being communicated the decision of the Tribunal, passed in the earlier O.A., respondents considered the appeal of the applicant and the same was disposed of by the impugned order dated 27.5.1994 with the direction that the applicant be taken back into service with effect from the date of voluntary retirement, but the intervening period shall be treated as extra-ordinary leave without pay. The respondents have also taken the plea that this application is not maintainable before this Tribunal as the cause of action had arisen at Jabalpur. It has also been pointed out that the applicant was granted pensionary benefits on his voluntary retirement and he has not yet refunded the said benefits to the respondents.

5. The applicant has filed rejoinder affidavit in which he has reiterated the contention

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made in the O.A. and denied contrary averments made in the C.A. It has also been stated that the application is maintainable before this Tribunal under the Central Administrative Tribunals (procedure) rules since under the rules an application can be filed where the cause of action has wholly and partly arisen. The communication of the impugned order was/made at ^{also his} Allahabad address. He has further stated that he has not refunded the benefits as he thought the amount could be adjusted against the salary ~~for~~ for the intervening period.

6. We have heard the learned consels for the parties and carefully perused the record.

7. The provision regarding voluntary retirement on completion of 20 years of service is contained in rule 48A of CCS(Pension)Rules. Under this rule, a government servant can apply for voluntary retirement on completion of 20 years of service, giving 3 months notice. However, there is also a provision that before completion of the period of three months, he can make a request for withdrawal of the earlier request for voluntary retirement, but such request can be made only with the specific approval of the Appointing Authority. It is, therefore, clear that while the rule confers a right on the applicant to submit an application for voluntary retirement, there is no corresponding right to submit a request for withdrawal of the same and this can be done only with the specific approval of the Appointing Authority. It is, therefore, not mandatory on the part of the Appointing Authority to accept the request for withdrawal of the earlier request for voluntary retirement. However, in compliance with the direction of the Tribunal in the earlier O.A., respondents considered the matter

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and issued orders for the reinstatement of the applicant in service from the date of his voluntary retirement. In these circumstances, there is no question of the applicant being kept away from duty and in our view, the intervening period cannot be treated as on duty and therefore the question of payment of salary for the intervening period does not arise. We, therefore, see no reasons to interfere in the order passed by the respondents.

8. So far as the jurisdiction of this Tribunal is concerned, the relevant section of Administrative Tribunal Act, 1985 provides that an application may be filed at the place, where the applicant normally resides after dismissal/retirement from service. In view of this, the application is maintainable as the applicant's residential address is at Allahabad. However, this is of no consequence as in any case, we find no merit in the case. We accordingly dismiss the same, leaving the parties to bear their own cost.


A.M.


V.C.

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