

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 6th day of February 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

O.A. No. 213 of 1999.

Raghu Raj Singh s/o Late Ram Kripal Singh r/o Village & P.O.
Sonai, District Allahabad..... Applicant.

Counsel for applicant : Sri H.S. Srivastava.

Versus

1. Union of India through the Secretary, Ministry of Defence (Finance), New Delhi.
2. The Controller General of Defence, Accounts, West Block, V, R.K. Puram, New Delhi.
3. The Controller of Defence Accounts, Jabalpur, M.P.

..... Respondents.

Counsel for respondents : Km. S. Srivastava.

O R D E R (ORAL)

BY HON. MR. S. DAYAL, A.M.

This application has been filed for setting aside the impugned orders dated 14.9.98, 28.9.98, 14.10.98 and 26.10.98. Direction to respondents is also sought to take the applicant in service and treating him to be continued in service till he attains the age of superannuation i.e. 31.10.2000 and pay the arrears and other emoluments including increments and also give further promotion to the post of Senior Accounts grade. The applicant was promoted to the post of Accounts Officer on 16.10.95 in the organisation of Controller of Defence Accounts, Jabalpur. The applicant made an application on 29.7.98 for his voluntary retirement under Rule 48(I)(a) of CGS Pension Rules 1972 w.e.f. 31.10.1998 (A.N.). The applicant claims that he sent another application on 8.9.98 withdrawing his request for voluntary retirement dated 29.7.98. It is claimed that the Pay and Accounts Officer, Jabalpur vide his letter No. AN/I/101/RRs dated 14.9.98 informed the applicant that his request for

voluntary retirement has been considered and rejected and he would be relieved of his duties w.e.f. 31.10.98. He was also informed by letter of the Pay and Accounts Officer, Corps of Signals, Babalpur dated 29.9.98 that his request for withdrawal of his application dated 29.7.98 for voluntary retirement has been considered by the competent authority and rejected. The applicant made an appeal to the respondents by application dated 30.9.98 and sought an interview with respondent No.2 vide application dated 6.10.98. The respondents issued Part II office order No.615 dated 14.10.98 on the authority of respondent No.2 letter dated 18.9.98 notifying the notice dated 29.7.98 for voluntary retirement has been accepted by the competent authority and the applicant would stand relieved of his duties in his present office of PAO and struck off the strength of that organisation w.e.f. 31.10.98 and would stand transferred to the Pension Establishment w.e.f. 1.11.98.

3. We have heard the arguments of Sri H.S. Srivastava for applicant and Km. S. Srivastava for respondents.

3. Counsel for the applicant has argued that the applicant had withdrawn his application for voluntary retirement by application dated 8.9.98. The voluntary retirement was accepted by letter of PAO Corps of Signal, Jabalpur dated 14.10.98 and transferred to pension establishment w.e.f. 1.11.98.

4. Counsel for the respondents has contested the arguments of counsel for applicant by stating that the request of the applicant was acceded to by the respondent No.2 by his confidential letter dated 4.9.98 which is a letter addressed to the CDA, Jabalpur by the office of CGDA, New Delhi. However, office order dated 14.10.98 mentions that the authority for acceptance is CGDA but CDA on authority of CGDA has issued the letter No.AN/II/2605/98 dated 18.9.98. It is not ⁱⁿ dispute that the letter dated 4.9.98 came to the knowledge of the applicant on 14.10.98.

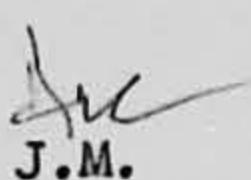
6. Counsel for applicant has relied upon the judgment of Hon'ble Supreme Court in J.N. Srivastava Vs. Union of India and Another 1988 SCC (L&S) 1251. In this case, the issue whether the appellant was entitled to withdraw voluntary retirement applicant submitted by him on 3.10.89 which was to come into effect from 31.1.90 and was accepted by the authorities on 2.11.89 but the applicant wrote a letter to withdraw his voluntary retirement on 11.12.89. This letter was not accepted by the respondents. The applicant, thereafter, went to the Tribunal which gave him no relief. The Apex Court relying on the view taken by a Bench of the Court in case of Balram Gupta Vs. Union of India and Another 1988 SCC (L&S) 126 ruled that it was well settled that even after the voluntary retirement, notice is moved by an employee and gets accepted by the authority before the time fixed for voluntary retirement is over, the employee has locus poenitiae to withdraw the proposal for voluntary retirement. The Apex Court in the case of Sri J.N. Srivastava ordered that the appellant would be treated to be in service till the date of his superannuation and the respondents authority will have to make good to the appellant of monetary benefits by treating him to be in continuous work till the date of his actual superannuation in 1994. The ratio of this case is fully applicable to the case before us.

7. We, therefore, direct the respondents to withdraw the order of retirement and make good to the applicant all monetary benefits by treating him as having continuously worked till the date of his actual superannuation on 31.10.2000. The applicant will be entitled to get all arrears of salary and other emoluments including increment and promotion on notional basis if due to the applicant within this period. This also entitles the applicant to get his pensionary benefits re-fixed accordingly. This will

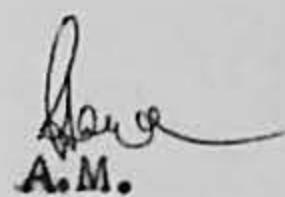
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be subject to adjustment of any pension amount and other retirement benefits already paid to the applicant in the mean time upto the date of his actual superannuation. The respondents have directed to give the entitlement of the applicant within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.



J.M.



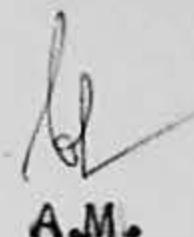
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Asthana/
8.2.02.

The Registrar is directed to ensure that the above judgment is fair typed and compared before a copy of the same is given to the parties.



J.M.



A.M.

As directed P.B of the judgment
has been fair-typed and compared.
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