

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 646 OF 1999

Allahabad, this the 16th day of August, 1999.

CORAM : Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S. K. I. Naqvi, Member (J)

Madan Mohan Lal Jain,
S/o. Shri Sohan Lal Jain,
R/o. 60 - Subzi Mandi, Khurja,
District Bulandshahar. Applicant

(By Shri R. K. Nigam, Advocate)

Versus

1. Union of India through Comptroller & Auditor General of India, 10 Bahadurshah Zafar Marg, New Delhi.
2. Comptroller & Auditor General of India, 10 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 (Ordinance Factories), 10-A Auckland Road, East Wing, 8th Floor, Calcutta-1

..... Respondents

O R D E R (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A))

This original application has been filed for setting aside order dated 29-3-94 by which it has been ordered that the name of Shri Madan Mohan Lal Jain be struck off from the strength of the office w.e.f. 29-3- because Shri Madan Mohan Lal had proceeded on Volunt

Retirement w.e.f. 29-3-94. Prayer has also been made for reinstatement of the applicant as Senior Audit Officer, Defence Services, Calcutta.

2. Heard arguments of learned counsel for the applicant who states that since the applicant had withdrawn his application for Voluntary Retirement on 15-1-94 by sending a letter to the respondents the order of Voluntary Retirement of the applicant is bad in law. He mentions that in the earlier O.A.No. 750/96 decided on 16-10-96 between Madan Mohan Lal Jain and Union of India, Comptroller & Auditor General of India, Director General of Audit, Defence Services etc. the directions were that representation dated 24-10-95 and 12-1-96 be considered.

3. We find that in O.A.No.750/96 decided on 16-10-96 the findings were contained in para-6 which are reproduced :-

"In this view of the matter, it cannot be said that the applicant was forced to retire. Government rules provide that if any government servant, who has put in 20 years of 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."

It may be mentioned here that the relief sought by the applicant in O.A.No.750/96 was the same as in the present one. The direction to consider the representations dated 24-10-95 and 12-1-96 by way of ^{obiter} ~~arbitra~~-dicta and not by way of any direction.

4. We find that after the name of the applicant was struck off on 29-3-94, the O.A.No.750/96 was filed only in the year 1996 which was beyond the period of limitation. Again it has taken the applicant further three years time to come to the Tribunal. Therefore on merits as well as on the issue of limitation this original application cannot be entertained and has to be dismissed.

There shall be no order as to costs.



MEMBER (J)



MEMBER (A)

/satya/