

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Dated: Allahabad, the 22nd day of January, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 01 OF 2000

Subhash Chandra Bharara,  
aged about 59 years,  
s/o late Sri Chaman Lal Bharara,  
r/o 28-A, Mahila Gram Colony,  
Subedarganj, Allahabad.

..... Petitioner

(By Advocate Sri Rakesh Verma)

Versus

1. Union of India, through the Secretary,  
Ministry of Defence, New Delhi.

2. The Chief Engineer,  
Central Command,  
Mahatma Gandhi Road,  
Lucknow Cantt.

3. The Garrison Engineer (Factory),  
Itarsi.

..... Respondents.

ORDER

(OPEN COURT)

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

This application has been filed for a direction to the respondents to fix monthly pension of the applicant in pursuance of Rule 49 (ii)(b) of CCS (Pension) Rules, 1972 and to pay retirement gratuity of the applicant each with interest of 18% per annum.

2. The facts of the case are that the applicant joined as Draftsman Grade-III in the Military Engineering Service on 27.8.63 and in due course came to be promoted as Draftsman Grade-II. The applicant applied through proper channel for the post of Chief Technical Assistant

in I.T.I., Naini and was selected for the said post. He submitted his resignation on 12.7.75 and was appointed on 17.7.75 in I.T.I., Naini.

3. The arguments of Sri Rakesh Verma, learned counsel for the applicant and Sri Pankaj Srivastava proxy counsel for Sri Satish Chaturvedi for the respondents have been heard.

4. The learned counsel for the applicant has prayed for the reliefs under Rule 37, 49 and 50 of CCS (Pension) Rules, 1972. The learned counsel contends that the matter is still pending with the respondents and draws attention to the Annexure No.1 to his supplementary Rejoinder, in which letter dated 26.7.99 the Garrison Engineer has written to the Chief Engineer, Jabalpur Zone that the matter was pending in his office, annexing his letter dated 21.1.78.

5. The learned counsel for the Respondents has drawn attention to Rule 26 of CCS (Pension) Rules, by which the servant on resignation gets forefeitted.

6. We have considered the provision of the Rules cited by the learned counsel for the applicant. Rule 37 of CCS (Pension) Rules, 1972, as contained in Swamy Pension Compilation 1995 Edition was substituted in October, 1991 and did not have application at the time the applicant submitted his resignation in order to join the post in I.T.I., Naini. Rule 49 (ii)(b) is applicable to a retiring government servant. The learned counsel for the applicant has not been in a position to show how it is applicable to a person, who has submitted his resignation. Rule 50 (i)(a) is again applicable to a retiring government servant.

7. The learned counsel for the applicant placed reliance on Ministry of Finance Office Memorandum dated 8.4.76 (Annexure RA-1), in which para-5 of the said Office Memorandum, the provision has been made applicable to a government servant, who has been appointed on Autonomous Bodies, financed wholly or substantially by the Government on the basis of its application and who is permanently absorbed in such a body with effect from 21.7.72. The office Memorandum, however, is dated 8.4.76, which is after the resignation of the applicant had been submitted and accepted. Besides, it is applicable to those government servants, who were appointed initially and were permanently absorbed later and the employee himself should have been a permanent employee. In the present case, the applicant has been mentioned as a quasi-permanent government employee.

8. We, therefore, find that the claim of the applicant is not based on the instant rules and we reject the application and dispose it with no order as to costs.

  
J.M.

  
A.M.

Nath/