

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A.NO.** 304 OF 1992  
**~~E.A.NO.~~**

DATE OF DECISION 9.3.1998

Ganesh Ram Petitioner

Mr. K.K. Shah, Advocate for the Petitioner [s]

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent [s]

**CORAM**

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The Hon'ble Mr.

**JUDGMENT**

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? *m*
- 2, To be referred to the Reporter or not ? *m*
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? *m*

Ganesh Ram  
A.E.E. ( Civil )  
B-108, O.N.G.C. Nagar  
Mehsana (N.G.) 384 001.

.... Applicant

(Advocate: Mr. K.K. Shah)

Versus

1. Union of India,  
Notice to be served through  
Secretary, Ministry of  
Defence Govt. of India,  
New Delhi.

2. Chief Engineer,  
Central Zone,  
Lucknow, U.P.

3. Commander, Works Engineer,  
Bhopal, M.P.

4. Garrison Engineer (M.E.S.)  
Mhow Cantt.,  
M.P.

.... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 304/92

Date: 9.3.1998

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

I have gone through the record and also taken the assistance from Mr. Akil Kureshi for the respondents.

2. The applicant, an employee in MES, was selected for a post of Junior Engineer in the ONGC. He had made a request on 24.4.81 for being relieved along with ~~what~~ a letter with the specific request that his lien should be maintained in the Department for a period of one year. A copy of the letter as at Annexure A-3 reads as follows:

"I am glad to inform you that with your kind

blessings I have been selected for a post of junior Engineer (Civil) in the O.N.G.C. in the scale of Rs. 595-20-755-25-930-30-1140.

I intend leaving the department wef 16th May 81 afternoon. This may please be treated as my notice for the same. Necessary certificate may please be issued.

In terms of G of I Min of Home affairs letter No.14/1/69/Estt(D) dated 29 Jul 70 circulated under Min of Def letter No.1(470 16552/D (Appts dated 26 Sep 70 published in CPRO 1971. I want to keep my lien with the department(MES) for a period of one year."

The authorities in the MES by their reply as at Annexure A-4 treated the letter of 24.4.81 as resignation and accepted the same subject to approval of lien with the Department for one year by Chief Engineer Lucknow. After joining the ONGC he sought to return to the Department. This was initially refused by the MES and he filed the Civil Suit which came to be transferred to the Jabalpur Bench in T.A.26/88. The Jabalpur Bench has disposed of this T.A. on 17.1.90 where they directed the MES to reappoint the applicant as Sub Overseer in that organisation. In para 7 of this judgment, the court also held that the fact that no objection certificate was issued by the department goes to show that the appointment of the applicant on 16.5.81 in the ONGC was not without knowledge of consent of the MES, although it was not a case of transfer in the public interest. They however, held that he cannot claim for seniority for the original post of Sub Overseer as

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resignation of the applicant had resulted as break in service. It is not in dispute that this judgment become final. He had earlier made a request that he may be granted the pension and other retirement benefits for the period of service he had rendered in MES from 26.8.64 till his relief on 16.5.81. This was not accepted by the MES and they said that he cannot be granted pension as he resigned from MES. This is seen as per letter dated 9th ~~september~~, 1988 as at Ann. A-1. When the MES offered him reappointment by letter dated 7.12.90 in compliance with the direction of the Jabalpur Bench he did not accept the appointment but made a request for grant of pro rata pension benefits by letter dated 20.12.90 as at Annexure A-22. This request was turned <sup>down</sup> by the Department by their letter dated 25.2.91 on the ground that he had resigned from service which was accepted from that date. Even earlier he had made a request for grant of pension which had also been turned down on the same ground by MES as at Annexure A-15. Being aggrieved by the refusal to grant pro rata <sup>retirement</sup> relief benefit the present O.A. has been filed.

3. The main ground urged in support of the O.A. is that his request contained in the letter dated 24.4.81 was only for relief <sup>to join</sup> for ONGC and not a resignation and that pension is a matter of right and cannot be arbitrarily denied.


4. As has been brought out in the reply statement and also from the letter rejecting his claim, the ground taken by the Department is that as he resigned, there is

no entitlement for pension. It is noticed that when he made a request for relief on 24.4.81 he had not asked for resignation as such. However, the letter as at Annexure A-4 says that his resignation dated 24.4.81 was accepted and the question of maintaining a lien is under process. This issue stands concluded with the judgment of Jabalpur Bench of the Tribunal dated 17.1.90 particularly para 6 thereof where the Tribunal had not accepted the contention of the respondents that his lien was not retained. In other words, the Tribunal had come to the conclusion that his lien was retained in the Department. There is an observation that he will lose his seniority and there is a reference for resignation of the applicant which according to the Tribunal resulted in a break in service. However, the reasonable inference is that even if the respondents had construed the applicant's letter of April 1981 as one of resignation, it was in the nature of technical resignation and not a simple resignation. The Tribunal's order had become final and had been accepted by the Department which had proceeded to offer reappointment to the applicant on the above basis but he did not choose to accept such reappointment.

5. It is <sup>clear</sup> ~~drawn~~ that the applicant left the MES not by tendering a simple resignation which would result in forfeiture <sup>of</sup> ~~past~~ service as he had made a request for retaining the ~~lien~~. The Jabalpur Bench of the Tribunal had held that such lien was retained. In the circumstances I hold that the resignation if at all of

the applicant was in the nature of <sup>technical</sup> resignation. It is seen from his letter dated 20.12.90 that he had continued in ONGC at least upto March 1990 and that he says that he received two promotions in that organisation upto that date. It is not clear ~~that~~ whether he has left the service of the ONGC now <sup>and</sup> if so from what date and on what basis. The Department is directed to treat his letter dated 24.4.81 as a ~~technical~~ resignation and the applicant should be given whatever benefits are available to such category of people who had left Government service to join ONGC at the relevant period on the basis of the instructions. If ~~on~~ the basis of such an exercise, it transpires that the MES had to make some contribution to the ONGC as pro rata retirement benefit for the service rendered by him in MES, they shall do so. The entire exercise should be completed within four months from the date of the receipt of a copy of this order. They shall not reject the claim of the applicant only on the ground that his letter dated April 1981 was a resignation. The letter dated 25.2.91 as at Annexure A in so far as it ~~is~~ denies benefits solely on the ground that he had resigned from Government service is quashed.

6. With the above direction, the O.A. is finally disposed of. No costs.

  
(V. Ramakrishnan)  
Vice Chairman

vtc.

DATE

OFFICE REPORT

ORDER

23.07.98

Mrs. Safaya has filed a memo of apperance for the miscellaneous applicant and her name is taken on record.

MA/479/98

Heard both sides on MA/479/98. MA is allowed and time extended as prayed for.

Ad

*Blha*  
(Laxman Jha)  
Member (J)

*67*  
(V. Ramakrishnan)  
Vice Chairman

hki

Miscellaneous applicant to remove office objections within a fortnight. Adjourned to 22.02.99.

*PM*

(P.C. Kannan)  
Member (J)

*MR*  
(V. Ramakrishnan)  
Vice Chairman

mb

18.01.99

22/2/99

*Mrs Safaya is present.*

*She has withdrawn office objections removed*

*Registry to give extension of time up to 22/2/99*

*for extension of time up to 22/2/99*

*is already over*

*before the registry*

*M.A. disposed of as instructed.*

*22/2/99*

*Dykes*

(V. Ramakrishnan)  
Vice Chairman

(P.C. Kannan)  
Member (J)

18.8.81

DATE OFFICE REPORT & ORDER

1-3-99

None present for the parties. However, the case is adjourned to 16-3-99.

*[Signature]*  
(A.S.SA IYED)  
Registrar

SSN

18.3.99

Office objections overruled.  
Registry to give a regular No.

We have seen MA No.168/99 which seeks for extension of time upto 8.3.99. This time is already over.

M.A disposed of as infructuous.

*[Signature]*  
(P.C.Kannan)  
Member(J)

*[Signature]*  
(V.Ramakrishnan)  
Vice Chairman

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DATE	OFFICE REPORT	ORDER
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19.3.2001

It is stated that a contempt petition has been filed by the original applicant. Adjourned to 17.4.2001.

*RV*  
 (V.Ramakrishnan)  
 Vice Chairman

vtc.

17.4.2001

Mr. K.K Shah is not present. Adjourned to 7.6.2001.

*A*  
 (A.S.Sanghvi)  
 Member (J)

*RV*  
 (V.Ramakrishnan)  
 Vice Chairman

mv

7.6.2001

M.A. 214/2000  
 MA It seeks time upto 6.6.2001 for implementing the Tribunal's order. The time sought for is already over. M.A. disposed of as infructuous.

*A*  
 (A.S.Sanghvi)  
 Member (J)

*RV*  
 (V.Ramakrishnan)  
 Vice Chairman

mv

ed of  
 (V.Ramakrishnan)  
 11/11/2001

DATE

OFFICE REPORT

ORDER

10.6.99

Mr.K.K.Shah has filed a sick note.  
Mrs. Safaya also not present. Adjourned  
to 16.7.1999.

(A.S.Sanghavi)  
Member(J)

(V.Ramakrishnan)  
Vice Chairman

16/7/99

Hon VC and  
Hon mcs) are  
on official tour.  
Adjourned to  
13/8/99.

vtc.

Dr Desai  
CO  
CO: I

13.8.99

Seen MA 296/99. This MA seeks  
extension of time to comply with our  
order upto 5.8.1999. This is already  
over. MA disposed of as infructuous.

(P.C. Kannan)  
Member(J)

(V.Ramakrishnan)  
Vice Chairman

vtc.

14.9.2000

Heard Mr.Doctor on MA 501/2000.  
For the reasons stated therein M.A. is  
allowed. Time to implement our direct  
is granted upto 19.10.2000. No further  
time will be given. M.A. disposed

(P.C.Kannan)  
Member(J)

(V.Rama  
Vice C

vtc.

19.3.2001

It is stated that a copy of the petition has been filed by the original applicant. Adjourned to 17.4.2001.

(V.Ramakrishnan)  
Vice Chairman

DATE	OFFICE REPORT	vtc. ORDER
17.4.2001		<p>Mr. K.K Shah is not present. Adjourned to 7.6.2001.</p> <p>(A.S.Sanghvi) (V.Ramakrishna) Member (J) Vice Chairman</p> <p>mv <u>M.A 214/2000</u></p>
7.6.2001		<p>It seeks time upto 6.6.2001 for implementing the Tribunal's order. The time sought for is already over. N.A disposed of as infructuous.</p> <p>mv</p>

(A.S.Sanghvi) (V.Ramakrishnan)  
Member (J) Vice Chairman

mv

DATE	OFFICE REPORT	ORDER
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10.6.99

Mr.K.K.Shah has filed a sick note.  
Mrs. Safaya also not present. Adjourned  
to 16.7.1999.

(A.S.Sanghavi)  
Member(J)

(V.Ramakrishnan)  
Vice Chairman

vtc.

16/7/99

Hon VC and  
Hon MCD are  
on official tour.  
Adjourned to  
31/8/99.  
By Desai  
CO  
CO I

~~12.8.99~~

13.8.99

Seen MA 296/99. This MA seeks  
extension of time to comply with our  
order upto 5.8.1999. This is already  
over. MA disposed of as infructuous.

(P.C. Kannan)  
Member(J)

(V.Ramakrishnan)  
Vice Chairman

vtc.

14.9.2000

Heard Mr.Doctor on MA 501/2000.  
For the reasons stated therein M.A. is  
allowed. Time to implement our directions  
is granted upto 19.10.2000. No further  
time will be given. M.A. disposed of.

(P.C.Kannan)  
Member(J)

(V.Ramakrishnan)  
Vice Chairman

vtc.