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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 125 of 1987.

Date of decision : December 21, 1988.

Trinath Padhy, son of late Srinivas Padhy,
aged about 52 years, Ex-Peon, Office of the
Works Manager, T & W, D.N.K., Project, Ambaguda,
District-Koraput, at present Gulipatna, Main
Road, At/P.O. Umerkote, District-Koraput.

... Applicant.

Versus

1. Union of India, represented by its
Secretary, Ministry of Home Affairs,
Department of Internal Security
(Rehabilitation Division) Jaisalmar
House, Mansingh Road, New Delhi.
2. Chief Administrator, DNK Project,
At/P.O./Dist. Koraput (Orissa).
3. The Works Manager, T & W,
Dandakaranya Project, Ambaguda,
Dist-Koraput. (Orissa). ... Respondents.

For the applicant ... Mr. C. A. Rao, Advocates.

For the respondents ... Mr. A. B. Mishra, Sr. Standing Counsel
(Central)

Mr. Tahali Dalai, Addl. Standing
Counsel (Central)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed
to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.

JUDGMENT

K.P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash Annexures-2, 6, and 12 as illegal, discriminatory and in contravention of Articles 14 and 16 of the Constitution and for a declaration that the order declaring the applicant as surplus keeping his juniors in service as illegal and contrary to law. Some other prayers have been made which would be dealt with at the appropriate stage.

2. Shortly stated, the case of the applicant is that he was working as a Peon under the Dandakaranya Development Authority and on 4.12.1985 vide Annexure-5 (1) the applicant submitted an application to the Works Manager expressing his intention to take voluntary retirement from service with effect from 15.12.1985. This notice for voluntary retirement was accepted vide Annexure-6 dated 9.12.1985. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that once the application for voluntary retirement has been accepted, it is no longer open to the person aggrieved to agitate the same issue and under the law the respondents have no obligation to again cancel the order passed by the respondents accepting the prayer of the applicant for voluntary retirement. Hence, it is maintained by the respondents that the case being devoid of merit, is liable to be dismissed.

4. We have heard Mr. C. A. Rao, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing

Counsel (Central) at some length. It was vehemently urged by **Mr.C.A.Rao** that the application for voluntary retirement was filed by the applicant as maintained in Annexure-5(1) out of sheer disgust and having been threatened with dire consequences by the Works Manager. The concerned authority of the Dandakaranya Development Project having declared the applicant surplus and having retained his juniors, the applicant lost his mental balance and while urging before the Works Manager to clear up the medical reimbursement bills of the applicant on account of illness of his wife and children the Works Manager misbehaved with the applicant and threatened him with dire consequences for which in a hot haste the applicant filed an application for voluntary retirement. **Mr.C.A.Rao** further submitted that the application for voluntary retirement is out of duress and coercion and therefore, both the application and the order passed on the said application should be quashed. **Mr.Rao** drew our attention to the averments made in the application to the above effect and contended that there being no denial from the side of the respondents to the allegations levelled by the applicant, the allegations should be taken to be true and nothing else. **Mr.Tahali Dalai**, learned Additional Standing Counsel (Central) drew our attention to the averments made in the counter which run thus :

" Hence the allegation made by the applicant that the Respondent No.3 has harassed him and taken notice of voluntary retirement forcibly etc. are irrelevant and baseless. Therefore, the averments made in this para are misconceived and denied. It is incorrect for the applicant to state that he acted according to the instructions of Works Manager and signed a letter prepared by him xx "

From the above quoted portion it is crystal clear that there has been a denial by the respondents to the above mentioned allegation of the applicant. In such circumstances, heavy onus lies on the applicant to substantiate his case. Besides the bald statements made in the original application, there is no iota of evidence before us to substantiate the case of the applicant on this count.

5. Another important factor appears against the applicant. The applicant filed an application before the Chief Administrator, Dandakaranya Development Authority vide Annexure-7 stating his difficulties especially his condition of poverty to maintain his children. Therein he has never breathed a single word expressing his intention to withdraw the application for voluntary retirement on the ground that it was obtained by the Works Manager from him by way of duress and coercion etc. On the contrary, the applicant in the concluding paragraph stated as follows:

" In view of the above facts, I fervently request your good self to consider my re-appointment or to give employment to one of my children in a suitable post to save a poor family, I will submit the particulars of my children on hearing from you please. "

This letter is dated 11.12.1985, even though under Annexure-6 the voluntary retirement order was to be effective from 16.12.1985. If the applicant would have expressed his intention to withdraw the application for voluntary retirement in Annexure-7, we think the Chief Administrator might have taken a sympathetic view. But on a perusal of the relevant papers filed in this case, we find that ~~is~~ nowhere

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the applicant has ever expressed the intention of withdrawing the application for voluntary retirement. Therefore, in such circumstances, we are of opinion that the allegations levelled against the Works Manager is an afterthought to somehow make out a case justifying his cause for withdrawal of the application for voluntary retirement. Therefore, in view of the aforesaid facts and circumstances, we are opinion that it is too late in the day for the applicant to now ventilate his grievance, if any, for withdrawing the application for voluntary retirement and we find no merit in the prayer of the applicant so far as this aspect is concerned.

5. Lastly, it was submitted by Mr.C.A.Rao that the authorities of the Dandakaranya Development Project are not clearing the medical reimbursement bills and the T.A.bills of the applicant out of grudge maintained against him. However, we would direct that the medical reimbursement bill and the T.A.bills, if pending before the Chief Administrator, should be cleared in favour of the applicant as per Rules within one month from the date of receipt of a copy of this judgment.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Agreed
21.12.88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

.....
21.12.88
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 21, 1988/S.Sarangi.