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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK



Original Application No. 331 of 1991

Date of Decision: 4.10.1993

Raghunath Nayak

Applicant(s)

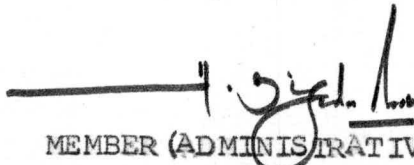
Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *NO*


MEMBER (ADMINISTRATIVE)

04 OCT 93


VICE-CHAIRMAN

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Raghunath Nayak

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. Devanand Mishra
Deepak Mishra
A. Deo, R. N. Naik,
B. S. Tripathy
P. Panda, D. K. Sahu
Advocates

For the respondents

Mr. Ashok Mishra
Standing Counsel
(Central Government)

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C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order bearing No. B/2-23 dated 5.8.1991 contained in Annexure-5 allowing the application of the petitioner for voluntary retirement.

2. The petitioner while performing the duties of a Postal Assistant at Daringabadi (within the District of Phulbani) made an application for voluntary retirement with effect from 30.6.1991. Simultaneously he made an application on 24.6.1991 for transferring him from Daringabadi

to Baliguda. This prayer of the petitioner for transfer to Baliguda from Daringabadi was allowed and later, on 17.7.1991, the petitioner filed an application withdrawing his application for voluntary retirement. Despite the application filed by the petitioner for allowing him to withdraw the application for voluntary retirement, the competent authority accepted the prayer of the petitioner and made him to voluntarily retire vide his order dated 5.8.1991 contained in Annexure-5 which is sought to be quashed.

3. In their counter the opposite parties did not dispute the fact that an application for withdrawal of voluntary retirement was filed by the petitioner on 17.7.1991. This position is practically admitted. But, at the same time, it was maintained by the opposite parties that the rule authorises the competent authority to reject such prayer of the petitioner when it does not come within the perview of Rule-48(A)(4) of the C.C.S.(Pension)Rules 1972 and therefore, it is rightly maintained that the petitioner's prayer for withdrawal of application for voluntary retirement was rejected.

4. We have heard Mr.R.N.Naik, learned counsel for the petitioner and Mr.Ashok Mishra, learned Standing Counsel.

5. Law is well settled, which was not rightly and fairly disputed at the Bar that a Government officer can change his mind and withdraw his prayer for voluntary retirement before its acceptance. But once it is accepted, the prayer of the Government officer for withdrawal will



have no effect. In the present case the application for withdrawal of the prayer for voluntary retirement was admittedly filed on 17.7.1991 much prior to the date on which it was accepted and communicated vide Annexure-5. Therefore, we do hereby quash Annexure-5 and direct that the petitioner should be reinstated in service with effect from 5.8.1991. The petitioner shall not be entitled to any backwages. Thus the application is accordingly disposed of. No costs.


MEMBER (ADMINISTRATIVE)

04 OCT 93


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 4.10.1993/ B.K.Sahoo

