

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dated 28.3.2001

I. Notices held against notice
A.O.

II. Mm R. Sikha
dev has enquired
against in bold
et al rem
vith A. memo

III. adj to 28.8.2001

IV. Learned Adl
for and
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Rear
28.8.2000

Dt. 28.8.2000

The learned Adl. for respondents pray for time to serve the counter copy. Prayer allowed. Time granted till 11.9.2000 for same.

8/8/2000
REGISTRAR
J. S. J. S. J. S.

Recd the day and
or copy of counter
not recd,
adj to 11.9.2000

For and
8/8/2000
Rear

Learned counsel for the petitioner and Associates are absent when called. There has been no request made on their behalf seeking adjournment. In this matter pleadings have been completed and the matter relates to retirement. In view of this it is not possible to drag on the matter indefinitely. We have, therefore, heard ~~Shri~~ Mrs. R. Sikdar, learned Addl. Standing Counsel for the respondents and also perused the records.

In this O.A. the petitioner has prayed for allowing him to resume his duties till the date of retirement from service by quashing the order, accepting his voluntary retirement. He has also asked for release of salary and other service benefits. Respondents have filed counter opposing the prayer of the applicant. Applicant has not filed any rejoinder.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. Admittedly the petitioner was working as Gangmate, Gang No. 26 in S.E. Railway, Kantabani, when in order dated 8.9.1998 vide Annexure-1 he was retired from service w.e.f. 8.12.1998, after three months' notice. In this order at Annexure-1 it has been mentioned that the notice for voluntary retirement given by the applicant has been accepted by the competent authority. The grievance of the applicant is that, he never ~~had~~ gave any notice for voluntary retirement, but his thumb impression was taken on a blank paper and it was utilised for retiring him voluntarily from service, even though he had not given any such notice and this is why he has come up in this O.A. with the prayers referred to earlier.

It is not necessary to refer to the averments made by the respondents in their counter, because these will be referred to while considering the submissions made by the learned Addl. Standing Counsel.

It has been submitted by Mrs. Sikdar that the applicant did submit a notice for voluntary retirement with his thumb impression and as per rule, his thumb impression was certified by two witnesses, viz., M/s. Dhan Patu and Mukunda. Accordingly after expiry of three months notice on 8.9.1998, he was retired

NOTE OF THE REGISTRY

Dtd. 11.9.2000

The learned
Advocate for respondents
prayed for time to serve
counter copy. Prayer
granted. Time granted
till 22.9.2000 as last
chance for service.

REGISTRAR

Receipts acknowledged
of copy of counter
not in

ad to 22.9.2000

Adv and

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2482

REG

22-9-2000.

Both the learned counsels
are present. Learned
counsel for the applicant
acknowledges receipt
of counter and prays
for time to file rejoinder
Hence case to
20-10-2000 for
rejoinder.

REGISTRAR

ORDERS OF THE TRIBUNAL

from service 8.12.1998. It is further submitted
that the case of the applicant was ~~not~~ enquired
into by D.E.N., Sambalpur, who in his report
dated 20.1.1999 vide Annexure-R/1, found that as
per practice, the Establishment Clerk, who writes
out leave application and other applications had
written out the application and that the Establishment
Clerk had written the same with the consent of the
applicant and two witnesses have also signed along
with the applicant in that notice. It is further
submitted that the petitioner applied for pension
and he submitted pension papers along with ~~joint~~
joint photograph with his wife. In view of the
above, we hold that as the grievance of the
applicant has been enquired into by a senior officer
of District Engineer rank and he has found that
the applicant in fact submitted the notice for
voluntary retirement, and as his thumb impression
in the notice was certified by two other employees,
it cannot be held that he did not actually give
notice for voluntary retirement. Applicant had also not
made any averment as to why two of the witnesses
in the notice for voluntary retirement, who are
coworkers should give wrong ^{his mother} witness. He has also
not made any averment regarding certification of
the notice of voluntary retirement by two of his
colleagues. Moreover, we find that the applicant
has been retired on 8.12.1998 and after receipt of
terminal and pensionary benefits he has approached
this Tribunal only on 15.2.2000. In view of this
we hold that the applicant is not entitled to any
of the reliefs prayed for. The O.A. is held to be
without any merit and the same is rejected, but
without any order as to costs.

MEMBER (JUDICIAL)

Jognath Jais
VICE-CHAIRMAN
28.8.2001