

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 1063 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman
Hon'ble Mr. S. Dasgupta, Administrative Member

Vijay Bahadur Singh, s/o Late Subh
Narayan Singh, aged about 54 years
8 months, residing at No.357, R.B.C.
Road, PO - Garifa, Dist.24-Parganas(N).

..... Applicant

-Vs-

1. Union of India, through the Secretary, Ministry of Defence Production, DHQ, Dakghar, New Delhi-110 011 ;
2. The Director General of Ordnance Factory, Auckland Road, Cal-1 ;
3. The Deputy Director General of Ordnance Factory and Disciplinary Authority, Auckland Road, Cal-1 ;
4. The General Manager, Rifle Factory, Ichapur PO - Ichapur Nawabganj, Dist. 24-Parganas(North) ;
5. The Controller of Quality Assurance (Small Arms), Controllers Quality Assurance, Ichapur, PO. Ichapur Nawabganj, Dist. 24-Parganas(North) ;
6. The Sr. Quality Assurance Officer, Senior Quality Assurance Establishment (SA), PO - Ichapur Nawabganj, Dist. 24-Parganas(North) ;
7. Sri Tapan Kumar Mondal, Works Manager/ Hardening and Inquiry Officer, Rifle Factory, PO - Ichapur Nawabganj, Dist. North 24-Parganas ;
8. Sri Aswini Kumar Bhattacharjee, Jr. Works Manager and Presenting Officer, PO Ichapur Nawabganj, Dist. 24-Parganas(North)

..... Respondents

For applicant : In Person

For respondents : Mr. M. S. Banerjee, counsel

Heard on : 27.1.98 & 5.2.98 - Order on : 12.2.1998

O R D E R

S.N. Mallick, VC

In this application, the petitioner appearing in person has prayed for quashing and/or setting aside the charge-sheet

dated 15.5.95 in the disciplinary proceeding drawn up against him by the respondent authorities and the enquiry report dated 12.8.96 and also for directing the respondents to give him all voluntary retirement benefits with effect from 6.12.94 along with suitable compensation for harassment and delay.

2. The facts in brief are as follows :

The petitioner has referred to a number of litigations against the respondent authorities initiated by him, some of which were initiated before the High Court, Calcutta and some before this Tribunal. After withdrawing two cases filed by him before this Tribunal, the petitioner joined the Rifle Factory at Ichapur sometime in 1994. Thereafter, on 4.6.94, he filed an application before the respondent authorities praying for voluntary retirement giving three months notice with effect from 11.6.96 as per Annexure 'A'. On 8.9.96, the petitioner wrote to the respondent No.3 referring to his earlier notice as per Annexure 'A' and he requested there that for any reason if his previous notice was not accepted, then the said letter dated 8.9.96 to be treated as his notice for voluntary retirement and he should be allowed to voluntarily retire from 6.12.94 (Vide Annexure C). By a letter dated 10.12.94, as per Annexure D, such request was not conceded to by the respondent authorities. Then again the petitioner by his letter dated 23.12.94 addressed to the respondent No.4 insisted on his voluntary retirement. But on 15.5.95, he received a charge-sheet as per Annexure F from the respondent No.4 under Rule 14 of the Central Civil Services (CCA) Rules, 1965. The petitioner then again went into correspondence with the General Manager, the respondent No.5 questioning the propriety of the disciplinary proceeding in view of his proposed voluntary retirement, which,

according to him, has already taken place. Thereafter, the petitioner received an order dated 29.3.96 stating that an enquiry had been set up to enquire into the charges against him which was to be held on 2.9.96. The petitioner states that such disciplinary proceeding and enquiry are illegal, void and malafide etc. after his service of notice of voluntary retirement. The petitioner moved this Tribunal u/s.19 of the Administrative Tribunals Act, 1985 in O.A. 533/96 against the aforesaid charge-sheet and the disciplinary proceeding, which was dismissed by an earlier Bench of this Tribunal by the order dated 15.7.96(Vide Annexure H-1). There also the question of his voluntary retirement as asserted by him was adjudicated upon and rejected. The Tribunal by its aforesaid order came to a definite finding that the applicant's contention that he shall be deemed to have gone on voluntary retirement from September, 1994 could not be accepted and had to be rejected. The Tribunal also came to a finding basing on its preceding finding negativing the petitioner's case of voluntary retirement that there was nothing wrong on the part of the respondents in issuing the charge-sheet against the applicant who had not retired at all.

3. In the instant application, the petitioner has sought for the same reliefs against the charge-sheet and the pending disciplinary proceeding reiterating his claim that he has voluntarily retired.

4. It has been submitted on behalf of the respondents that the present application is not maintainable for being barred by the principles of res judicata in view of the order of the Tribunal passed in O.A. 533 of 1996, which we have already referred to above. A copy of the application in O.A. 533/96 has been

annexed to the reply. It appears that the reliefs sought for in the present case are same and similar to those claimed in the earlier application. The facts agitated in the instant application were also agitated in the earlier one by the petitioner. The issues involved in both the cases are same. The cause of action in both the applications remains the same. The earlier Bench of the Tribunal has dismissed the earlier O.A.No. 533 of 1996 on full adjudication of the facts asserted by the parties thereto. Under the circumstances, we accept the contention of the Ld.Counsel for the respondents that the instant application is a vexatious application and is barred by res judicata. It has also been submitted by the Ld.Counsel appearing for the respondents that against the order of the Tribunal dated 15.7.96 passed in O.A. 533/96, the petitioner preferred an SLP before the Apex Court, on the basis of which an interim order of stay in the connected departmental proceeding has been granted. In para-1 of the reply, these facts have been categorically stated on behalf of the respondents. In the rejoinder filed on behalf of the petitioner, there is denial of these averments made in para-1 of the reply but there is no denial to the order passed by the Supreme Court on the SLP. It is stated that the instant application has been filed on the basis of further application made to the authorities. This is no ground to file a second application.

5. In view of the above, we think that the instant application is a frivoleus one and must be dismissed and we accordingly dismiss it with exemplary costs of Rs.1,000/- to be paid by the petitioner to the respondents within a month from this date.

W.R.
(S. Dasgupta)
Member(A)

S. N. Mallick
(S.N. Mallick)
Vice-Chairman