

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

J/6
Date of Decision : 12.04.2002

O.A No. 80/2001.

C T Abraham s/o Shri C G Thomas, aged about 63 years, resident of 15, Bheru Vilas, Golf Course Road, Jodhpur, last employed on the post of Land Surveyor and Head Draftsman (Under Suspension) in Central Arid Zone Research Institute, Jodhpur.

... APPLICANT.

versus

1. Indian Council of Agricultural Research, through the President Krishi Bhawan, New Delhi.
2. The Director General, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
3. The Director, Indian Council of Agricultural Research Central Arid Zone Research Institute, Jodhpur (Raj.)

... RESPONDENTS.


Shri B. Khan counsel for the applicant.
Shri V. S. Gurjar, counsel for the respondents.

CORAM

Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :
(per Hon'ble Mr. Justice O. P. Garg)

The applicant who was initially appointed as Land Surveyor/Head Draftsman in Central Arid Zone Research Institute (CAZRI) on 10.01.1958 faced an order of termination dated 23.07.1981. He challenged the order of termination by filing a writ petition before the Hon'ble High Court. On the

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constitution of this Tribunal, the said writ petition was transferred and it was registered as TA No. 12/1989. The order of termination was set aside. The applicant was placed under suspension. Since Subsistence allowance was not paid to him he filed OA No. 176/95 which was dismissed on the ground that the applicant has not exhausted all the available alternative departmental remedies. The Original Application was found to be premature. A charge sheet was served on the applicant and after enquiry he was dismissed from service by order dated 02.08.1996, on the ground that he was absent for a very long period in an unauthorised manner. The order of dismissal dated 02.08.1996 was challenged by the applicant by filing OA No. 1832/97 before the Principal Bench of Central Administrative Tribunal, New Delhi. The said OA was decided on 07.08.2000. Quashing the order of dismissal dated 02.08.1996, the matter was remitted to the Disciplinary Authority. The Disciplinary Authority was directed to consider the findings of the Enquiry Officer and other material on record before passing the final order.

2. Before the order of dismissal dated 02.08.1996 could be set aside by the Principal Bench, New Delhi, in OA No. 1832/97, the applicant had attained the age of superannuation on 31.01.1998.

3. Pursuant to the order of Principal Bench, New Delhi, dated 07.08.2000, the respondents have issued a notice dated 07.04.2001 (Annexure R-1), to the reply. The applicant did not submit any reply or representation to the notice aforesaid.

4. Shri B. Khan, learned counsel for the applicant, urged that the applicant had submitted the reply and made a reference to Annexure R-6 filed with the rejoinder affidavit. We have perused the said annexure and find that it is not a reply to the notice issued by the respondents on 07.04.2001 (Annexure R-1). The applicant has simply mentioned in Annexure R-6 that on account of paucity of funds he is not in a position to defend himself and, therefore, his pensionary benefits and other legitimate dues be released.

5. Shri V. S. Gurjar, learned counsel for the respondents pointed out that the applicant is claiming release of the pensionary and retiral benefits in the present OA. According to him the applicant attained the age of superannuation only after he had been dismissed and that the order of dismissal was quashed after about two years of the attainment of the age of superannuation by the applicant. It was also pointed out that the Principal Bench of CAT, New Delhi, has remitted the case for decision afresh and unless the proceedings ~~are~~ culminated in the dismissal of the applicant are finalised pursuant to the order of PB, the applicant is not entitled to the release of any pensionary or retiral benefits. Shri B. Khan, learned counsel for the applicant, is not in a position to repel this submission. We find that the contention of Shri V. S. Gurjar, learned counsel for the respondents, has considerable force. Unless the departmental authorities take a decision in the matter in the light of the observations made by Principal Bench, New Delhi, in OA No. 1832/97 and bring the departmental proceedings against the applicant to a logical

end

end, the applicant cannot as a matter of right claim the relief of release of pensionary and retiral benefits.

6. Learned counsel for the applicant urged that the applicant shall be filing reply to the notice dated 07.04.2001 (Annexure R-1) within a period of thirty days from today.

7. This OA is finally disposed of with the direction that in case the applicant files a reply to the notice dated 07.04.2001 (Annexure R-1), the Disciplinary Authority shall pass appropriate orders in the light of the direction made by the Principal Bench in OA No. 1832/97 within a period of thirty days from today. No order as to costs.

Gopal Singh

(GOPAL SINGH)
Adm. Member

O.P.G

(JUSTICE O. P. GARG)
Vice Chairman

part II and III destroyed
in my presence on 11-7-07
under supervision of
Section Officer as per
order dated 14/10/2007

Section Officer (Record)

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Received
Jaswinder
13/10/07
(Punjab Singh)
Ass'tt.