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CENTRAL ADMINISTRATIVE TRIBUNAL

**Original Application No. 35/2009
JODHPUR : THIS IS THE 24th FEBRUARY, 2011.**

CORAM :
HON'BLE DR. K.B.SURESH, MEMBER [J]
HON'BLE MR.SUDHIR KUMAR, MEMBER [A]

S. P. Monga S/o Shri Madan Lal aged about 57 years, r/o Gali No. 5, Nai Abadi, I/F Gurudwara, Hanumangarh Town, last employed on the post of Office Superitnendent

APPLICANT

For the Applicant : Mr. J.K. Mishra, Advocate.

VERSUS

- 1- Union of India through Secretary to the Government of India, Ministry of Financne, Department of Revenue, North Block, INew Delhi.
- 2- The Chief Commissioner of Income Tax, Aayakar Bhawan, Paota 'C' Road, Jodhpur.
- 3- The Commissioner of Income Tax, Bikaner.

RESPONDENTS

For the Respondents : Mr. Varun Gupta, Advocate.

ORDER **[PER DR. K.B.SURESH, MEMBER (J)]**

Heard.

- 2- The applicant challenges his compulsory retirement which was a direct result of an inquiry finding him guilty for his absence for 945 days. The applicant would contend that he had a Heart Vessel disease, and also, along with it, he was tested as HIV positive, and also minor side effects attached to it. The complaint of the authorities seems to be that he seems to be running around to various hospitals at Jaipur and Dehi but, in between he did not find time to inform the authorities about leave. The pleadings in respect to the medical condition are ineffective and

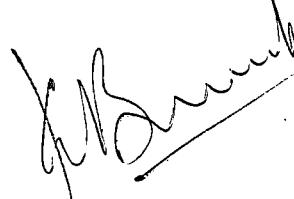


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inadequate, and no convincing ground is enunciated for us to come to a conclusion that the disease was debilitating enough for him to be absent, without even informing the respondents, for a period of 945 days. Even if we were to consider that it was clear that tri-vessel disease are often serious and the treatment methodology is un-available, even if it culminated in a bye-pass surgery, it would have required only two to three months' hospitalization at the ru. maximum, unless, there are other serious side effects which took place. But, such is not the nature of the pleadings of the applicant. The gravity of disease cannot be deduced from any of his pleadings, nor the documents ru. produced by him.

3- In any case, this Tribunal has considered this matter earlier in OA No. 229 of 2008, and vide order dated 26.11.2008, had directed disposal of his appeal, as he had prematurely approached the Tribunal. At that time also, the Tribunal had occasion to look into the inquiry, and thereafter, vide Annex. A/3 a detailed enunciation of the ru. case after proper analysis is seen to ~~have been~~ passed. ru.

4- We had asked the learned counsel for the applicant to give one specific reason for us to assume that the applicant did not present himself in his office, nor inform the authorities, due to the gravity of his disease, either in



his pleadings, nor in the documentation, but, he could not point-out any. It appears that all processes and procedures of domestic inquiry, which should be necessary for just decision of the issue, have been initiated, and the natural justice has been accorded, Thus there does not seem to be any lacunae in the order passed by the respondents. The O.A., therefore, lacks merit, it is therefore dismissed with no order as to costs.

(Sudhir Kumar)
AM

(Dr.K.B.Suresh)
JM

jrm

दिनांक 21/4/16 के आदेशानुसार
मेरी उम्मीद है कि नियम 9/6/16
को अस्ति-प्रतिक्रिया की तिथि न हो।

अ. श. श. अधिकारी
लोकतान्त्रिक प्रशासनिक अधिकारण
जोधपुर न्यायपीठ, जोधपुर