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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

Original Application No.401/2012

Jodhpur, this the 19th February, 2013

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HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)
HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)

Bhanwar Lal Regar S/o Shri Ghazi Ram, aged about 58 years, R/o Regar Basti, Ward No.38, Tehsil Churu, District Churu. (Office Address: working as SPM Bagla School Road, Post office at Churu in Postal Department).

.....**Applicant**
Mr. S.P.Singh, counsel for applicant.

Vs.

1. The Union of India, through the Secretary, Government of India, Ministry of Communication, Department of Post, Dak Tar Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur-302 007.
3. The Director, O/o Post Master General, Western Region, Jodhpur.
4. Superintendent of Post Offices, Churu Division, Churu.

...**Respondents**

Mr. Vinit Mathur, counsel for respondents.

ORDER (ORAL)

Per Justice K.C. Joshi, Member (J)

The short question involved in this OA is that applicant has approached this Tribunal to declare the letter dated 05.09.2012 illegal, unjust, improper and further direct the respondents to grant voluntary retirement in accordance with rules with all consequential benefits.

2. The simple case of the applicant is that he is working under the respondent department and he belongs to SC category, and

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has rendered his unblemished service for 34 years as postal assistant. After the completion of 20 years of service of the applicant in Postal Assistant cadre, the respondents granted him financial upgradation MACP-II, which was withdrawn and this Hon'ble Court directed to grant MACP and the arrears to be paid with GPF interest. The applicant moved application for voluntary retirement but the respondent denied the same by stating the reason that Review petition is pending or in process whereas no documents/records are produced and even the number of review application has not been provided to him. He further contended that pendency of review application or a writ against the order of the Tribunal cannot be a ground to deny the voluntary retirement under Rule 48 of CCS Pension Rule 1972. The applicant fulfils all the criteria of voluntary retirement and presented his representation before the respondent department to decide the matter of his voluntary retirement, but no heed was paid.

3. The respondent in their reply contended that the applicant preferred an original application No.382/2011 before this Tribunal against the Memo dated 10.08.2011, and the said OA was allowed by this Tribunal vide its order dated 22.05.2012. The respondents, against the order dated 22.05.2012, preferred a DB Writ Petition No.11336/2012 before the Division Bench of the Hon'ble High Court, which is pending. As such, the request of the applicant for grant of VRS cannot be accepted as the matter is sub-judice before the Hon'ble High Court. No other ground has been averred in the reply.

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4. By way of rejoinder, the applicant has reiterated the same facts, which were averred in the Original Application.

5. Heard both the parties. Counsel for the applicant contended that the pendency of the writ before the Hon'ble High Court cannot be a ground to deny the voluntary retirement to the applicant. Counsel for the respondents contended that because of pendency of the writ, the VRS has been refused.

6. We have considered the rival contention of both the parties and perused the pleadings of the parties. In our considered view, the pendency of the D.B. Writ petition before the Hon'ble High Court cannot be a ground under Rule 48 of CCS Pension Rules, 1972, and thus, in our view the application for voluntary retirement has wrongly be rejected or denied by the respondents. Therefore, the impugned order dated 05.09.2012 (Annexure-A/1) is quashed, and the respondents are directed to consider the application of the applicant to grant voluntary retirement to him within a period of one month from the date of receipt of a copy of this order.

7. Accordingly, the OA is allowed as stated above. No order as to costs.


[Meenakshi Hooja]
Administrative Member


[Justice K.C. Joshi]
Judicial Member