

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: CALCUTTA

OA NO.1088/97

CALCUTTA THIS THE 28TH DAY OF NOVEMBER, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDL.)

S.K. BHATTACHARJEE

..APPLICANT

(BY ADVOCATE SHRI P.C. DAS)

VERSUS

UNION OF INDIA & OTHERS

..RESPONDENTS

(BY ADVOCATE SHRI K.C. SAHA)

REPLY

ORDER (ORAL)

Heard the parties. The claim of the applicant is directed against the order passed by the respondents voluntarily retiring the applicant on 17.7.96 on his request made on 5.2.96. It is contended that if the voluntary retirement is not acted upon within a period of three months it cannot be acted upon thereafter and the applicant has to be taken back in service. It is further contended that without prejudice to his right to challenge the voluntary retirement the retiral benefits of the applicant has not at all been disbursed to him.

2. On the other hand, the learned counsel for the respondents by taking resort to the Railway Board's circular dated 1.7.81 that even if no formal orders have been passed accepting the notice for voluntary retirement it is deemed to have been accepted and automatically operated at the end of the three months and the applicant has made a request on 5.2.96 which the respondents have accepted from 17.7.96. During this period there was no request of the applicant to withdraw the same as such once the same is accepted it cannot be taken back. As regards the retiral benefits it is contended that the applicant has already been paid all the retiral benefits, including the revised benefits as per the Fifth Central Pay Commission's recommendations.

retirement has been made and accepted by the respondents it cannot be taken back if there is no request of the concerned officer to withdraw the same before the expiry of the notice period or before the stipulated date when the same has been accepted. The Hon'ble Supreme Court in the case of Balram Gupta v. Union of India, AIR 1987 SC 2354 has laid down that withdrawal of notice within the time prior to expiry of the notice period would render the voluntary request nullity but if no request is made during this period once the order has been passed to accept the same it cannot be taken back. There is nothing on record, as highlighted by the learned counsel for the applicant to suggest that he has made any request to the respondents to withdraw the same.

3. As regards the retirement benefits are concerned, though the respondents have given particulars and the date on which the bills have been prepared and handed over to the applicant regarding all the retiral benefits including the revision of the same as per the Fifth Pay Commission's recommendations. The grievance of the applicant that he has not been paid the same would be taken care of if he prefers a representation to this effect to the respondents who will dispose of the same by passing a detailed and speaking order, giving details of the payment accorded to the applicant and the proof of the acknowledgement within a period of three months from the date of receipt of a copy of this order. The representation shall be made within two months from today.

4. Having found no merit in the OA the same is dismissed.

No costs.

S. Raju

(Shanker Raju)
Member (J)