

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 118 of 1999.

Wednesday this the 6th day of October, 1999.

CORAM:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

V.K. Balakrishnan Nair,  
Lower Selection Grade Sorting  
Assistant (T.B.O.P)  
Head Record Office,  
R.M.S. 'EK' DN, Cochin-16. .... Applicant

(By Advocate Shri K. Karthikeya Panicker)

Vs.

1. The Union of India represented by  
the Secretary, Department of Post,  
New Delhi.

2. The Senior Superintendent,  
Railway Mail Service,  
Ernakulam Division,  
Cochin-16.

3. The Director of Postal Services,  
Central Region,  
Cochin-16.

4. The Head Record Officer,  
Railway Mail Service,  
Ernakulam Division. .... Respondents

(By Advocate Shri K. Kesavankutty, ACGSC)

The application having been heard on 6th October, 1999,  
the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. The applicant seeks to quash A-2 and A-4, to declare  
that he is entitled to continue in service till he retires on  
superannuation and to direct the 2nd respondent to accept A-3  
withdrawal letter.

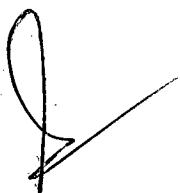
2. The applicant joined the Railway Mail Service on  
20.6.74. He has to retire on superannuation on 1.7.2007. He  
has completed 25 years of service. Because of his financial

problems, he decided to retire voluntarily and submitted A-1 notice of voluntary retirement. As per A.2, the 2nd respondent accepted the voluntary retirement sought by the applicant. The applicant's financial position subsequently improved and he submitted A3 withdrawing A1 notice of voluntary retirement. As per A4, the request contained in A3 was rejected.

3. The respondents resist the OA contending that sub rule 4 of the Rule 48 A of CCS(Pension) Rules, does not confer any absolute right to the Government Servant to withdraw the notice given under sub rule (1) of the said rule. Withdrawal of such notice requires specific approval of the competent authority. The ground stated by the applicant for seeking voluntary retirement was his domestic problems. The grounds stated in the withdrawal letter are improvement of his financial position and chances of getting BCR promotion in the event of continuing in service. The 2nd respondent after careful consideration of the case, decided not to approve the proposal to withdraw the notice since the applicant did not adduce any justifiable reason in support of the proposal.

4. Applicant submitted A1 notice dated 13.11.98 seeking permission to retire voluntarily under Rule 48-A of the CCS(Pension)Rules with effect from 1.2.99 (F/N) .The same was accepted by the 2nd respondent and the applicant was permitted to retire from service on the forenoon of 1.2.99.

contd...3/-



After A2 but before the expiry of the notice period i.e. 1.2.99 the applicant submitted A3 dated 5.1.99 to the 2nd respondent to permit him to withdraw his request for voluntary retirement. That request has been turned down as per A4. The reason stated in A4 is that "No unexpected situation has been cited by the applicant warranting review of the earlier orders permitting him to retire voluntarily." The reasons stated in A1 for seeking voluntary retirement is the domestic problems of the applicant. In A3, he has stated that A1 was submitted due to domestic reasons i.e. financial difficulties and that has come to an end now.

5. Ordinarily permission should not be granted unless the officer concerned is in a position to show that there has been a material change in the circumstances in consideration of which the notice was ordinarily given. In the facts of the instant case such indication was given. The applicant has stated that, since his financial position has improved, though he was facing financial difficulties at the time of submission of A1, he has dropped the idea of seeking voluntary retirement. We do not see how this could not be good and valid reason.

6. The approval of the authority under Rule 48-A(4) is however, not ipse dixit of the approving authority. The approving authority who has the statutory authority must act reasonably and rationally. What prompted the Government to

contd....4/-



withhold the withdrawal is important and not what prompted the Government servant to seek the withdrawal. The only reason put forward in Annexure A4 is that no unexpected situation has been cited by the applicant warranting review of the earlier order permitting him to retire voluntarily. (See 1987 (Supp)SCC 228).

7. According to the applicant, subsequent to A1, his financial position has improved. It could well be unexpected and for that he could not be faulted.

8. A decision has to be arrived by the concerned authority based on just reasons and not on the irrelevant and extraneous consideration. The power cannot be exercised to throw out a troublesome element.

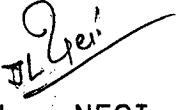
9. In the reply statement it is stated that he was awarded various punishments. From a reading of the reply statement it appears that the attempt of the department is to weed out the applicant since a number of punishments have been imposed on him. Permission to withdraw can be refused if the Government Servant comes with such a request at the last moment without any rhyme or reason. It is not a case like that here. The notice period was to expire on 1.2.99.

contd.....5/-

The request for withdrawal of voluntary retirement was made on 5.1.99. There is no case for the department that the department has completed the required steps for filling up the post by substitute, immediately on expiry of the notice period so that serious administrative problems will ensue by retracting the steps.

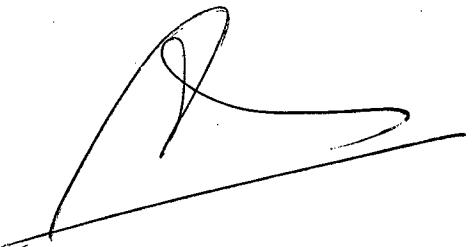
10. Accordingly, A2 and A4 orders are quashed.

11. O.A. is disposed of as above. No costs.



J.L. NEGI

ADMINISTRATIVE MEMBER



A.M. SIVADAS

JUDICIAL MEMBER

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List of Annexures referred to in the Order.

- A-1, True copy of the notice dated 13.11.98 submitted by the applicant to 2nd respondent.
- A-2, True copy of the Memo No.B-120 dated 18.11.98 issued by the 2nd respondent.
- A-3, True copy of the notice dated 5.1.99 submitted by the applicant to 2nd respondent.
- A-4, True copy of the Letter No.PF/B-19 dated 13.1.99 issued by the 2nd respondent.