

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 237 of 2005

Friday, this the 10th day of June, 2005

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. K. Kunhikrishnan,
Retired Deputy Director General,
Doordarshan (Prasar Bharti),
House No. 169 E, Lakshmi,
Silver Lane, PTP Nagar,
Thiruvananthapuram – 695 043

Applicant

[By Advocate Shri K.P. Satheesan]

Versus

1. Union of India, represented by the Secretary,
Ministry of Information and Broadcasting,
Sasthi Bhavan, New Delhi – 110 001
2. The Chief Executive Officer,
Prasar Bharti, PTI Building,
Second Floor, Parliament Street,
New Delhi – 110 001
3. The Director General,
Doordarshan, DD Bhavan, Copernicus Marg,
New Delhi – 110 001

Respondents

[By Advocate Shri N.N. Sugunapalan Sr.]

The application having been heard on 10-6-2005, the
Tribunal on the same day delivered the following:-

ORDER

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant, who was working as Deputy Director General, Doordarshan (Prasar Bharti), claims to have been retired from service on 6-1-2005. He has sent a notice of



voluntary retirement as provided under FR 56(K) on 6-10-2004 and the retirement comes into effect with effect from 6-1-2005, i.e. after the expiry of three months period of notice. He made representations on 10-1-2005, 31-1-2005 and 22-2-2005 but nothing heard from the respondents.


2. When the matter came up for hearing from 4-4-2005 onwards, several adjournments were granted to the respondents for filing the reply statement and finally, on 6-6-2005, as a matter of last chance, the matter was adjourned for today. However, no reply filed yet. Learned counsel for the respondents submitted that he has sent even a fax message to the Delhi office of the respondents but no instructions so far received.

3. Shri K.P. Satheesan, learned counsel appeared for the applicant and Shri N.N. Sugunapalan Sr. Advocate appeared for the respondents.

4. The matter relates to pensionary benefits of a retired person and sufficient opportunities have already been granted to the respondents and the legal position is settled, we are of the view that the matter has to be disposed of today itself.

5. Considering the urgency of the matter filed by a retired person, we are disposing of the matter on merits under Section 19 of the Administrative Tribunals Act, 1985.

6. The facts of the case are that the applicant originally entered in the service of the Government of India as Assistant Editor of ICAR in 1970 and joined Doordarshan in 1977. After 34 years of service under the Government of India out of which 27 years in Doordarshan as a Group A officer in the pay scale of Rs.18400-500-22400, he has made an application under FR 56(K) read with Rule 48 of the CCS (Pension) Rules, 1972 for voluntary retirement. He has given notice as evidenced by records on 6-10-2004 and requested for processing his application and ordering grant of terminal benefits including



pension (Annexure A1). The notice period of three months expired on 6-1-2005. But the respondents have not given any reply either accepting or rejecting the request made by the applicant. The applicant has averred that on the basis of the relevant rules, even if no orders are passed, he stands retired from service on the expiry of three months period, i.e. on 6-1-2005. Aggrieved by the said inaction on the part of the respondents, the applicant has filed this Original Application seeking the following reliefs:-

- "i) to issue an order or direction to the Respondents to release the terminal benefits of the Applicant as expeditiously as possible and at any rate within a time limit that may be fixed by this Hon'ble Tribunal;*
- ii) to issue an order or direction to the Respondents to grant all benefits to the Applicant as admissible to similarly placed Government servants on retirement as per the Rules in force;*
- iii) to issue an order or direction to the Respondents to pay pension to the Applicant reckoning his entire service of 34 years and to pay 18% interest on the amounts due to the Applicant by way of terminal benefits till the date of payment;*
- iv) to award the cost of this proceedings; and*
- v) to issue such other order or direction as may be deemed just and necessary in the facts and circumstances of the case."*

7. We have gone through the pleadings and materials placed on record. It reveals from the record that the applicant already made an application for voluntary retirement on 6-10-2004 in terms of Rule 56(K) of the CCS (Pension) Rules, which reads as follows:-

"FR 56(K):-

Any Government Servant may giving notice of not less than three months in writing to the appropriate authority retire from service after he has attained the age of 50 years, if he is in Group 'A' or Group 'B' service or posts (and had entered Government service before attaining the age of 35 years) and in all cases after he has attained the age of 55 years.

Provided that:

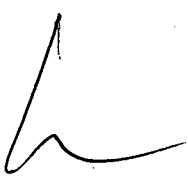
- (a) Nothing in this Clause shall apply to a Government servant referred to in Clause (e) who entered the Government service on or before 23rd July 1966;*



(b) Nothing in this Clause shall be applied to a Government servant including Scientist or Technical expert who (I) is on assignment under the Indian Technical and Economic Operation (TEC) Programme of Ministry of External Affairs and other aid programmes (II) is posted abroad in Foreign based office a Ministry/Department and (III) goes on specific contract assignment to a Foreign Government unless, if having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year and;

c) It shall be open to the appropriate authority to withhold permission to a Government servant under suspension who seeks to retire under these clause."

8. Admittedly, the applicant has the made the application for voluntary retirement on 6-10-2004 which should have come into effect on 6-1-2005 and thereafter he has made repeated representations on 10-1-2005, 31-1-2005 and 22-2-2005 which were not responded to by the respondents. The legal position governing the subject is that if such a notice is given automatically that comes into effect after the expiry of three months period. This three months period is granted to the employer Government to analyze and evaluate whether there is any cloud of the service of the applicant. Since nothing is forthcoming from the Government side, it is to be presumed that the applicant is eligible to be retired after the expiry of three months. The Hon'ble Supreme Court in Dinesh Chandra Sangma Vs. State of Assam and Others [(1977) 4 SCC 441] and in State of Haryana and Others Vs. S.K. Singhal [JT 1999 (3) SC 140] has observed that if the right to voluntary retirement is confirmed in absolute terms as in Dinesh Chandra Sanghma's case by the relevant rules and there is no provision in the rule to withhold permission in certain contingencies, the voluntary retirement comes into effect automatically on the expiry of the period specified in the notice. In other words, there is no requirement of order of acceptance of the notice to be communicated to the employee; nor can it be said that non-communication of acceptance should be treated as amounting to withheld of permission. The legal position being so, we are of the view that the applicant's notice for voluntary retirement dated 6-10-2004 is presumed/deemed to have been accepted by the Government.



9. In the conspectus of facts and circumstances of the case, we declare that the notice Annexure A1 dated 6-10-2004 is deemed to have been accepted by the respondents and the applicant retired from service with effect from 6-1-2005. Therefore, the applicant is entitled for all other benefits flowing out of such acceptance. We direct that the respondents shall grant the benefits to the applicant within a period of three months from the date of receipt of a copy of this order.

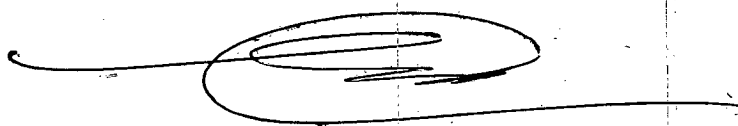
10. The Original Application is allowed as above. In the circumstances, there is no order as to costs.

Friday, this the 10th day of June, 2005



N. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

Ak/MNV



K.V. SACHIDANANDAN
JUDICIAL MEMBER