

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 306/90 199-
XXXXXX

DATE OF DECISION 9.8.1990

KK Viswambharan Applicant (s)

M/s K Krishnankutty Menon & Advocate for the Applicant (s)
PK Asokan

Versus

MaxKxRzax UOI rep. by Secy., Respondent (s)
M/o Defence, New Delhi & 3 others

Mr.K.Prabhakaran, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

After serving the Army in Madras Engineer Group and Centre Bangalore from 2nd March, 1960 to 23rd May, 1968 as Havildar Clerk, the applicant got discharged on medical ground and then reemployed as civilian Lower Division Clerk in Southern Naval Area, Cochin from 8th January, 1969. He was promoted as Assistant Store Keeper on 12th June, 1971. While he was working as Store Keeper, owing to his family background which required his presence in his native place, the applicant on 30th March, 1981 made an application for permission to retire voluntarily (Annexure-A). This request for voluntary

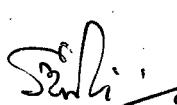
retirement was rejected by Annexure-B memo dated 9th June, 1981 for various reasons mentioned therein. In the meanwhile as the applicant did not report for duty ^{ed} and overstay _~ the leave, the Western Naval Command, Bombay, the 4th respondent issued a charge-sheet against him and after an enquiry removed the applicant from service with effect from 18th January, 1983. The applicant made a representation to the second respondent on 3rd July, 1988, explaining his difficulties and stating the injustice done to him in not giving him his pensionary benefits. The applicant has now filed this application _~ stating that this representation has not been disposed of, and that the denial to him of his service benefits is arbitrary and illegal. He has prayed that it may be declared that he had the right to elect for voluntary retirement from service, and that the respondents may be directed to allow the applicant to retire with all service benefits.

2. We have heard the arguments of Shri K.Krishnankutty Menon, advocate appearing for the applicant and Shri K. Prabhakaran, ACGSC appearing ~~on~~ behalf of the respondents. _~

3. The applicant's request for permission to voluntarily retire from service was turned down by the respondents by order dated 9th June, 1981 at Annexure-B. Therefore, his grievance has arisen as early as in June, 1981 which

is more than three years prior to the coming to being of the Central Administrative Tribunal. It has been held by this Tribunal in VK Mehra Vs. Secretary ATR-1986 CAT 2093 and Dr. (Mrs.) Kshama Kapoor Vs. Union of India 1987-4-ATC-329, that this Tribunal has no jurisdiction in respect of the claims which arose prior to 1st November, 1982, and that the fact that, repeated representations have been made would not alter this legal position. In view of this legal position, we are of the view that the application is barred under Section 21 of the Central Administrative Tribunals Act. Further the applicant has been removed from service pursuant to a disciplinary order passed as early as in 1983 which has not been challenged by him. Therefore, as the claim of the applicant is clearly barred by the limitation, we dismiss the application without admitting it.


(A.V. HARIDASAN)
JUDICIAL MEMBER


9.8.90.
(S.P. MUKERJI)
VICE CHAIRMAN

9.8.1990