

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 709/87
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DATE OF DECISION

27.1.1988

Shri V. Narayanaswamy

Petitioner

Shri Krishnaraja Goswami

Advocate for the Petitioner(s)

Versus

Union of India & 2 ors.

Respondent

Shri J D Desai (for Shri M I Sethna) Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B C Gadgil, Vice Chairman

The Hon'ble Mr. J G Rajadhaksha, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? — 49
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

O.A. No. 709/87

Shri V. Narayanaswamy
C/o. Mr. Krishnaraj Goswami
Advocate, High Court
Room No. 18 High Court (Grough Floor)
Western India Advocate's Association
Bombay 400032

Applicant

v/s.

1. Union of India
Through the Secretary
Ministry of Defence(Central Government)
New Delhi

2. General Manager
Ammunition Factory
Kirkee, Pune-3

3. The Estate Officer
Ordnance & Range Hills Estate
Kirkee, Pune-3

Respondents

Coram: Hon'ble Vice Chairman B C Gadgil
Hon'ble Member(A) J G Rajadhyaksha

Appearance:

Shri Krishnaraj Goswami
Advocate
for the Applicant

Shri J D Desai
(for Shri M I Sethna)
Counsel
for the Respondents

JUDGMENT

DATED : 27.1.1988

This is one of those matters which deserves to be summarily dismissed.

2. The applicant was working as a Joint Controller of Defence Accounts (Factories) in the Ammunition Factory at Kirkee. In April, 1984 the department issued instructions that the applicant should be examined by a Medical Board. The applicant contends that this order is bad. However, that aspect is not very much relevant on

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account of subsequent events as mentioned hereunder. On 6.4.1984 the applicant gave a notice (Exhibit B) to the President of India that he intends to voluntarily retire from service under Rule 48(A) C.C.S. (Pension) Rules, 1972. It is not in dispute that under that rule the applicant was entitled to so retire. He was permitted to retire with effect from 6.7.1984 (vide Exhibit C). The applicant was then occupying Government accommodation. On 24.7.1984 he requested for grant of permission to continue the occupation of residential quarters for two months. Thereafter he again made an application dated 28.8.1984 (Exhibit E) for further extension of such permission for a period of six months more. It appears that such permission was not granted and eviction proceedings were initiated. Eviction order was passed on 19.11.1984 (Exhibit L). He was evicted from the premises on 15.12.1984. Certain belongings of the applicant were in the premises at the time of such eviction. On 17.12.1984 a notice was given to him (Exhibit O) that the applicant should remove those articles otherwise they will be sold by public auction. The applicant did not remove the articles and hence on 18.1.1985 notice of such public auction (Exhibit Q) was issued and the auction was fixed on 6.2.1985. The applicant filed a Writ Petition in the High Court on 5.2.1985. The High Court granted stay of the auction on the applicant's depositing Rs. 10,000. It appears that on 6.2.1987 the applicant took back his personal household articles and the High Court passed an order that the amount of Rs. 10,000 deposited by the applicant should be paid to the department.

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3. On retirement the applicant was entitled to have his pension, provident fund, gratuity etc. He has written a letter dated 3.9.1984 (Exhibit F) asking the department to release the provident fund, pension, gratuity etc.

4. The grievance of the applicant is that he was compelled to issue a notice of retirement and that the order permitting him to retire was bad. The applicant has prayed for reinstatement in service and also contended that the eviction from the residential quarters was illegal.

5. We have heard Shri Goswami, Advocate for the applicant and Shri J D Desai (for Shri M I Sethna), Counsel for the Respondents. In our opinion it would be very difficult for us to imagine that any undue influence was used for compelling the applicant to voluntarily retire from service. The fact that after such retirement the applicant initially applied for permission to continue in the possession of the residential accommodation for two months after retirement is an indication that the applicant opted for voluntary retirement on his own will. Not only that, he further requested for an extension of six months of stay in the quarters. The permission of two months or the rejection of extension for six months presupposes the retirement of an employee. Thus by making such requests the applicant has adhered to his voluntary retirement and asked for extension. He had also requested the department to

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release his provident fund, pension, gratuity etc., vide his letter dated 3.9.1984 (Exhibit F). A request in that respect would be a clear indication of the applicant having opted for voluntary retirement on his own will and has not arisen out of any pressure or undue influence. The applicant has been evicted from the premises. He had filed a Writ Petition in the High Court and ultimately he withdrew that Writ Petition presumably with the understanding that the applicant would get back his house hold articles and the department would take Rs. 10,000 that was deposited by the applicant. In our opinion all these circumstances are inconsistant with the applicant's allegation that he was compelled to give a notice of retirement or that his eviction from the premises was in any way wrong. Thus the prayer of the applicant that he should be reinstated in service and that he should get back his residential accommodation is not at all permissible. Thus on facts, the applicant has no case.

6. Before closing we may also state that the application is barred by time. The voluntary retirement was made effective from 6.7.1984. The applicant was evicted from the residential accommodation on 15.12.1984. He had filed a writ petition in the High Court and we are told that the said writ petition has been withdrawn. Thus the cause, if any, has arisen in 1984 and an application with respect to such matters filed in 1987 would be barred by time.

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ORDER

The result is that the application is summarily dismissed. There would, however, be no order as to costs.

~~(S G Rajadhyaksha)~~

Member(A)

B C Gadgil

(B C Gadgil)

Vice Chairman