

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:130/2000
DATED THE 31st DAY OF OCT. 2000

CORAM:HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

Shri Venkatesh Siddurao Pujar,
a resident of Ramkrishna Niketan,
Shantivan, P.O.Nere, Taluka
Panvel, District Raigad-410 206. ... Applicant

By Advocate Ms.Shilpa Kharbari

v/s.

1. Union of India,
through its Ministry of Personnel,
Public Grievances & Pension,
(Dept. of Pension & Pensioners Welfare),
Nirvachan Sadan,
New Delhi-110 001.
2. Director General Works,
Central Public Works Department,
Nirman Bhavan,
New Delhi-110 011.
3. Superintending Engineer,
Government of India,
Bombay Central Circle,
C.P.W.D., Vth Floor,
C.G.O. Building,
Mumbai - 400 020.
4. Pay & Accounts Officer,
15th Floor, C.P.W.D.,
Old C.G.O Building,
Maharshi Karve Marg,
Mumbai - 400 020.
5. Pay and Accounts Officer,
Governing of India through
its Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhavan,
New Delhi - 110 003. Respondents.

By Advocate Shri V.S.Masurkar

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(O R A L) (O R D E R)

Per Smt. Shanta Shastry, Member(A).

Heard Ms. Shilpa Karbhari on behalf of the applicant. Shri V.S. Masurkar appears for the respondents. I proceed to dispose of the OA on merits.

2. The applicant was working with the CPWD under the Government of India initially as a Store Keeper on 25/11/42 in Belgaum Aviation Sub-Division No.II on Workcharged Establishment. The applicant worked as Upper Division Clerk with Respondent No.3 until 2/5/64 and submitted his resignation on account of domestic problem. The resignation was accepted on 3/5/64. The applicant is now claiming pensionary benefits on the ground that he had put in effective service of 21 years from 1/4/42 till 2/5/64. The applicant is taking support from the scheme of the Government of India for voluntary retirement which was introduced on 1/1/78. It is the contention of the applicant that upon receipt of the knowledge of the Government of India's voluntary retirement scheme under resolution No.CDN/MF-CGA/63/95-96/104, a legal notice dated 25/3/97 was addressed to Respondent No.5 and the respondents replied vide their letter dated 26/6/97 that the applicant was not entitled to voluntary retirement scheme as he had resigned from service voluntarily w.e.f. 2/5/64 i.e. 14 years prior to the introduction of the scheme of voluntary retirement. Applicant has cited certain judgements in support of his claim for pensionary benefits. The applicant is relying on the judgement of the Tribunals/Apex Court in case of M/s. J.K. Cotton Spinning and Weaving Mills Co. Ltd. Kanpur V/s. State of U.P & Ors., wherein it has been held that if an employee voluntarily tenders his resignation, it is an act by which he voluntarily

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gives up his job therefore resignation of the applicant could be treated as superannuation for all purposes. He is also relying on the case of Om Prakash Singh Maurya V/s. Union of India & Ors, decided on 14/9/98. It has been held therein that the applicant was also entitled for pension.

3. The Learned Counsel for the respondents takes preliminary objection that though the applicant tendered his resignation in 1964, the applicant has approached this Tribunal only on 28/1/2000 i.e. after 35 years and therefore the application suffers from delay and laches and it is totally time barred as the cause of action arose 35 years ago. Such an application cannot be maintained. The application should have been made within one year of the cause of action. Secondly, the scheme for voluntary retirement after 20 years of service was introduced only in 1978 and therefore the applicant who resigned in 1964 cannot be entitled for the benefit of this scheme.

4. I have gone through the pleadings. In my view the OA is totally time barred and cannot be considered as 35 years have lapsed since the applicant resigned. Even if one were to treat the resignation of the applicant as retirement, even then, the application having been filed after 35 years cannot be entertained at all. The application certainly suffers from delay and laches and if the applicant has chosen to sleep over his rights for such an inordinately long period of time, the Court cannot help it. Also since the claim for voluntary retirement after 20 years was not in existence at all at the time the applicant resigned, even on merits, the applicant has no case. The application being devoid of merits, the OA is dismissed. I do not order any costs.

Shanta S.
(SHANTA SHASTRY)
MEMBER(A)