

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 16 MAR 1988

APPLICATION NO 1056 / 87(F)

W.P. NO. _____

Applicant

Respondent

Shri K. Nagesha Prabhu

V/a

The Supdt. of Post Offices, Udupi & another

To

1. Shri K. Nagesha Prabhu
S/o Shri Dundappa alias Ramakrishna Prabhu
Shiribeedu
Udupi
Dakshina Kannada District
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
3. The Superintendent of Post Offices
Udupi Division
Udupi
Dakshina Kannada District
4. The Post Master General
Karnataka Circle
Bangalore - 560 001
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAX~~/~~INTERIM~~ ORDER
passed by this Tribunal in the above said application on 11-3-88.

BA. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE ELEVENTH MARCH, 1988

Present: Hon'ble Shri P. Srinivasan Member (A)

Hon'ble Shri Ch. Ramakrishna Rao Member (J)

APPLICATION NO. 1056/87(F)

K. Nagesha Prabhu,
S/o. Dundappa @ Ramakrishna Prabhu,
51 years, Shiribeedu,
Udupi (DK).

Applicant

(Shri M.R. Achar.....Advocate)

Vs.

1. The Superintendent of
Post Offices,
Udupi Division,
Udupi.

2. The Post Master General,
Karnataka Circle,
Bangalore-560 001.

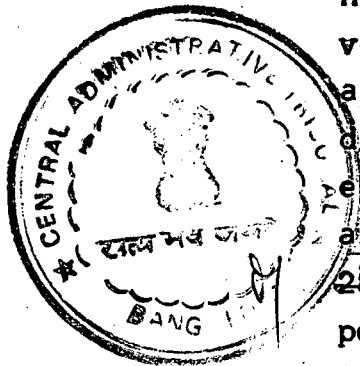
Respondents

(Shri M.Vasudeva Rao...Advocate)

This application has come up for hearing
before this Tribunal to-day, Hon'ble Shri P.
Srinivasan, Member(A), made the following :

O R D E R

In this application made under Section 19
of the Administrative Tribunals Act, 1985, the
only grievance of the applicant is that he was
not allowed to postpone the proposed date of
voluntary retirement even though he made an
application to do so before the expiry of the
date by which he was to retire according to his
earlier notice. The applicant wants us to set
aside Annexures B and C dated ^{28.4.1987} ~~7.10.1987~~ and ^{7.10.1987} ~~28.4.1987~~ by which he was not permitted to
postpone the date of his voluntary retirement
from 23.6.1987 to 31.8.1987 as per his fresh
request made on 11.4.1987.



P. Srinivasan

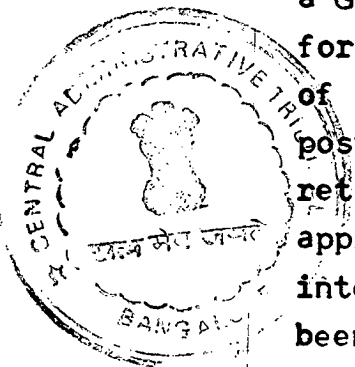
.....2/-

2. The applicant made an application on 23.3.1987 seeking voluntary retirement with effect from 23.6.1987. On 2.4.1987 Respondents accepted his request for voluntary retirement with effect from 23.6.1987. This letter of the respondents was received by the applicant on 7.4.1987. By a letter dated 11.4.1987 the applicant made a request to Respondent 1 to permit him to retire on the afternoon of 31.8.1987 as he was due to get an increment from 1.8.1987 and this would help him get a higher pension. This request was, however, rejected by Respondent 1 by letter dated 28.4.1987. The contention of the applicant is that he should have been allowed to change the date of retirement to 31.8.1987.

3. Shri M.R. Achar contends that till the notice of voluntary retirement given by the applicant expired and till the applicant was actually due ~~when~~ to retire he could either withdraw the notice or ask for an alteration of the proposed date of retirement. The applicant here sought a postponement of the date of retirement on 11.4.1987 itself ie., well before the date on which he was to retire according to his earlier notice. The authorities have unreasonably rejected his request.

4. Shri M. Vasudeva Rao relies on the provision of Rule 48(2) of the CS(Pension) Rules which precludes a Government servant from withdrawing his application for voluntary retirement without the specific approval of such authority. He admits that the request for postponement was made before the intended date of retirement earlier notified by the applicant. The applicant sought to postpone the date of his intended retirement after his earlier notice had been accepted by the Respondents and so his request for postponement could not be considered.

5. Having considered arguments of counsel on both sides we are satisfied that this application should succeed. No doubt under Rule 48(2) of the



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Pension Rules a Government servant can withdraw an application for voluntary retirement only with the specific approval of the appropriate authority. The present is not a case of withdrawal pure and simple, the applicant only wanted permission to retire two months later. Even assuming that the applicant had to get the approval of the authorities, the authorities have to act reasonably in granting or refusing approval. If the applicant gave a proper reason for the change in the date of retirement the authorities should not normally have rejected the request. We see no reason why the authorities should have refused the request of the applicant in the instant case. After all he wanted a postponement of the date of retirement by two months because he would get a higher pension due to an increment that would fall due before 31.8.1987. There was nothing illegal or unreasonable about this request which the authorities should have rejected straight away. We are, therefore, of the view that on the facts of this case the authorities should have accepted the request of the applicant for postponement of the date of his retirement to 31.8.1987. We are fortified in this view by the decision of the Supreme Court in BALRAM GUPTA V. UNION OF INDIA AIR 1987 SC 2354.

6. In view of the above we pass the following orders:

- (i) The applicant shall be deemed to have retired from service with effect from the afternoon of 31.8.87 and not from the after noon of 23.6.87;
- (ii) The period between 23.6.87 and 31.8.87 shall be adjusted against any kind of leave due and admissible to the applicant; and
- (iii) the retirement benefits due to the applicant may be redetermined consistent

P. S. Gupta

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with the directions given above.

- iv) Orders contained in letters dated 28.4.1987 (Annexure B) and 7.10.87 addressed to the applicant by respondents 1 and 2 respectively are hereby quashed.

6. In the result the application is allowed.
Parties to bear their own costs.



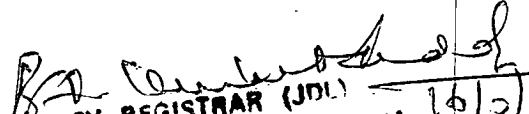
Sd--

(P. SRINIVASAN)
MEMBER (A)

Sd--

(CH. RAMAKRISHNA RAO) 11/3
MEMBER (J)

TRUE COPY


DEPUTY REGISTRAR (JDL) 16/3
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE