

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 3 APR 1989

APPLICATION NO (S) 2052 /88(F)

W.P. NO (S)

Applicant (s)

Shri V.K. Narasimhan

To

1. Shri V.K. Narasimhan
No. 15, 7th Cross
Prasanth Nagar
Bangalore - 560 079

2. Shri S.G. Bhat
Advocate
No. 166, Post Office Road, M.C.R. Extension
Vijayanagar
Bangalore - 560 040

3. The Commanding Officer
No. 26 Equipment Depot, AF
HAL Post
Bangalore - 560 017

Respondent (s)

V/s The Commanding Officer, 26 ED, AF, B'lore & anr

4. The Air Officer-in-Charge
(Personnel)
Air Headquarters
Vayu Bhavan
New Delhi - 110 011

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 a copy of ORDER/~~3044~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application(s) on 22-3-89.

4/25/89
K. M. Venk
3-12-89

o/c
R. V. Venkatesh
DEPUTY REGISTRAR
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE TWENTYSECOND DAY OF MARCH, 1989

PRESENT: HON'BLE SHRI JUSTICE K.S. PUTTASWAMY...VICE-CHAIRMAN
HON'BLE SHRI L.H.A. REGO ...MEMBER (A)

APPLICATION NO. 2052/1988

1. Sri V.K. Narasimhan,
aged about 54 years,
r/o No.15, 7th Cross,
Prasantha Nagar,
BANGALORE-79.

...APPLICANT

(Shri S.G. Bhat.....Advocate)

Vs.

1. Commanding Officer,
No.26 Equipment Depot,
Air Force, HAL,
BANGALORE-17,560017.

2. The Air Officer in charge(Personnel)
Airheadquarters, Vayu Sena Bhavan,
New Delhi-110011.

...RESPONDENTS

(Shri M. Vasudeva Rao.....Advocate)

This application has come up for
hearing before this Tribunal to-day, Hon'ble Shri
Justice K.S. Puttaswamy, Vice-Chairman, made the
following :-

O R D E R

This is an application under
Section 19 of the Administrative Tribunals Act
of 1985 (Act).



2. Shri V.K. Narasimhan, the applicant before us initially joined service as a Civilian Store Keeper in the Office of the Commanding Officer, Air Force, Bangalore - (COAF) - Respondent No.1. He was later promoted as Senior Store Keeper which is now designated as Stores Superintendent (SS) in that very office in which capacity he continued to work at all material times.

3. In a disciplinary proceeding instituted against the applicant under the Central Civil Service (Classification, Control and Appeal) Rules, 1965, (CCA Rules) the COAF by his order no: 26ED/C3625/16429/PC dated 21st September, 1987 inflicted on him the penalty of compulsory retirement from service, the validity of which was challenged by him before this Tribunal in Application No. 507/1988. On 10.6.1988, we allowed the said application on these terms:-

"We quash Order No.26ED/C3625/16429/GC dated 21.9.1987 (Annexure-E) of the GC. But this order does not prevent the appointing authority of the applicant or any other authority higher to him to pass orders on the disciplinary proceedings instituted and completed against the applicant by the GC in accordance with law."

In pursuance of this order, the COAF reinstated the applicant in service on 10.8.1988 as SS in which capacity he is continuing ever since then.

4. On 25.9.1988 the applicant who had the requisite qualifying service, gave notice to the Competent Authority (CA) under Rule 48-A of the Central Civil Services Pension Rules, 1972 (Pension Rules) to permit him to voluntarily retire from service on the expiry of 3 months notice. On an examination of the same, the competent authority had rejected the same, the purport of which is communicated to the applicant by the COAF in his letter no. 26ED/C3625/16429/PC dated 15.12.1988 (Annexure A-6). In this application made on 23.12.1988, the applicant has challenged the same and has sought for a direction to the respondents to accept his voluntary retirement and permit him to retire with all consequential benefits.

5. In resisting this application, the respondents have filed their reply and have produced their records.

6. Shri S.G. Bhat, learned counsel for the applicant contends that his client who fulfilled every one of the requirements of Rule 48-A of the Pension Rules, was entitled to voluntarily retire from service and the



refusal of the competent authority for the same, was illegal, improper and unjust.

7. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel, appearing for the respondents sought to support the refusal by the competent authority.

8. On the eligibility of the applicant to seek voluntary retirement under Rule 48-A. of the Pension Rules there is no dispute between the parties. Both sides do not also dispute that the applicant had given necessary notice in writing to his appointing authority.

9. The competent authority had refused the permission sought by the applicant on the ground that disciplinary proceedings initiated against him in pursuance of the liberty reserved by this Tribunal in Application no. 507/1988 was still pending against him. Shri Bhat does not dispute the correctness of this statement.

10. With this we will now read rules 48(A) (i) and (ii) which are material. They read thus:-

"48-A (1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

Under this rule, a civil servant who gives a notice of retirement, cannot retire on the expiry of the period stipulated in the notice. Before the expiry of the period stipulated in the notice it is open to the competent authority either to accept or refuse the same. The power to accept or refuse is conferred on the competent authority. On an examination of all the fact situation, the competent authority had refused the permission sought by the applicant.



11. The only other question that calls for our examination is whether the

-: 6 :-

reason given by the competent authority is a relevant reason or not. We are of the view that the reason for refusal is a relevant reason. If that is so, then we cannot examine the same as if we are a court of appeal and come to a different conclusion. On this, we cannot uphold the challenge of the applicant to the impugned order.

12. In the light of our above discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.



8d —
VICE-CHAIRMAN

8d —
MEMBER (A)

22.2.1989

TRUE COPY

[Signature]
DEPUTY REGISTRAR (JDL) 3/3/89
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE