

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 888/92

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DATE OF DECISION 4.9.1992

Shri P.V. Shankar Kumar

Petitioner

Shri A.D. Poojari.

Advocate for the Petitioners

Versus

The Secretary, Min. of Defence Respondent
New Delhi and others.

Shri R.K. Shetty.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

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. Whether it needs to be circulated to other Benches of the Tribunal ?

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S.K.D
(S.K. DHAON)
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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Original Application No. 888/92

Shri P.V. Shankar Kumar

... Applicant.

V/s.

The Secretary
Min. of Defence,
Govt. of India,
South Block, New Delhi.

Chief Engineer
Southern Command
General Cariappa Marg.,
Queen's Road, Pune.

Chief Engineer
Ahmedabad Zone
Ahmedabad Cantonment
Ahmedabad (Gujarat)

Garrison Engineer (Project)
Gandhinagar (Gujarat)

... Respondents.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman.
Hon'ble Shri M.Y. Priolkar, Member (A).

Appearance:

Shri A.D. Poojari, counsel
for the applicant.

Shri R.K. Shetty, counsel
for the respondents.

JUDGEMENT

Dated: 4.9.92

{ Per Shri S.K. Dhaon, Vice Chairman }

The applicant had put in 20 years of service. He sought voluntary retirement. Therefore, he made an application. During the pendency of the application, it appears, he also tendered his resignation. His request for voluntary retirement was rejected, however his resignation was accepted. He has now come to this Tribunal with the prayer that the order accepting the resignation may be quashed and the respondents may be directed to act as if his prayer for voluntary retirement has been accepted.


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
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It appears, on 5.9.84 the applicant gave a notice that he sought voluntary retirement. On 2.11.84 he was informed that since he (the applicant) was involved in a disciplinary case, he could not proceed on retirement till the finalisation of the case.

The applicant's case is governed by Rule 48 A of the Central Civil Service Pension Rule. This Rule states that, at any time after a government servant has completed 20 years of qualifying service, he may, by giving notice of not less than 3 months, in writing to the appointing authority, retire from service. Sub-Rule(2) postulates that the notice of voluntary retirement shall require the acceptance of the appointing authority. Therefore, the applicant's request seeking voluntary retirement required acceptance of the appointing authority. The argument is that no such acceptance is required and the appointing authority is bound to accept the request of voluntary retirement. Such a situation is contemplated in Rule 48, where the qualifying service prescribed is 30 years. Reliance is placed on behalf of the applicant on the case of O.P. SHARMA VS UNION OF INDIA 1987 - 3 ATC 537 That was a case where Rule 48 A was interpreted. Therefore, the learned Members of the Tribunal held that no acceptance was necessary if the government servant wished to seek retirement after putting in 30 year's of qualifying service. This case has no application to the facts of the present case.

We find no merit in this application and the same is dismissed summarily.


(M.Y. PRIOLKAR)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN