

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 705 /1995

Date of Decision: 08.08.1996.

Shri S. S. Lasure, Petitioner/s

None for the applicant. Advocate for the
Petitioner/s

V/s.

Union Of India & Others, Respondent/s

Shri R. K. Shetty, Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M. R. Kolhatkar, Member (A).

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- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

M. R. Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).

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CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.: 705/95.

Dated, this Thursday, the 8th day of August, 1996.

CORAM : HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Shri S. S. Lasure
1170/12, Rajanigandha,
Opp. Hotel Bhooshan,
Shivajinagar,
PUNE - 411 005.

... Applicant

(By Advocate - None for the applicant)

VERSUS

1. Union Of India through its
Secretary,
Defence Ministry,
South Block,
NEW DELHI.

... Respondents.

2. Controller of Defence Accounts
(Pension),
Allahabad.
3. Commandant,
Central Ordnance Depot,
Dehu Road.

(By Advocate Shri R.K. Shetty).

: ORDER :

¶ PER.: SHRI M. R. KOLHATKAR, MEMBER (A) ¶

In this O.A. the applicant challenges the impugned order dated 20.09.1993 from the Sr. Accounts Officer (P), Office of the Chief C.D.A. (P), Allahabad, which reads as below :

" Shri S.S. Lasure was entertained in service with effect from 22.2.44 in COD Dehu siding and he resigned from his service on 3.8.65 after rendering more than 20 years temp/Q.Pt. service.

In accordance with rule 26(1) CCS (P) Rules 1972, resignation from service entails forfeiture

of past service. Therefore, the above named individual is not entitled for any pensionary benefits.

In this connection it is also stated that his case is also not covered under Rule 48-A C.C.S. (P) Rules, 1972 inserted vide Govt. Of India, Min. Of Finance Notification No. 7 (ii) EV (A)/73 dated 28.11.1978 as individual has already resigned on 3.8.65 when the above rule was not in vogue. This office letter nos. even dated 11.2.93 and 8.7.93 refer. "

It is clear that the applicant has resigned from service after completion of 21 years, 5 months and a few days. The applicant is claiming the relief of grant of pension and arrears on the ground that though the applicant's letter is styled as resignation, ^{it} is virtually a request to retire from service with three months' advance notice. The respondents have filed a written statement opposing the O.A. firstly on the ground of limitation because the applicant tried to revive a stale ^{cause of action} by entering into correspondence with the department on 12.03.1992 and has approached the Tribunal to challenge the refusal to grant pension by respondent's letter dated 20.09.1993 but the cause of action arose in 1965 when the Tribunal was not even in existence. In view of the ratio laid down in Union Of India V/s. V.K. Mehra [1986 ATR (II) 204] this Tribunal has no jurisdiction. It is further contended by the Counsel that even on merits the applicant cannot get the relief because he is relying on the rule relating to voluntary retirement on completion of 20 years of qualifying service, namely Rule 48 (A)

which was inserted in C.C.S. Pension Rules only by the notification dated 28.11.1978. Even in respect of employees who voluntarily retired by giving a notice of three months, the rules apply only from 1978 and not retrospectively. So far as the applicant is concerned, the question of treating his resignation as a voluntary retirement does not arise because resignation is totally different from voluntary retirement. The respondents at the argument stage also filed a copy of the original letter of resignation dated 12.07.1965 which clearly states that the applicant tenders this as a resignation of his present post and request for immediate relief by waiving the normal rules of notice period. The application was accepted on 02.08.1965 to take effect from 03.08.1965. According to Rule 26 (1) of C.C.S. (Pension) Rules - Resignation from a service or a post, unless it is allowed to be xx xx xx xx xx withdrawn in the public interest by the appointing authority, entails forfeiture of past service, and therefore, such an employee is not entitled to pensionary benefits.

2. Considered the matter. I am of the view that the O.A. has no merit either in rules or in equity, apart from the fact that it has been filed in respect of stale cause of action. The O.A. is dismissed with no order as to cost.

MR Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).