

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 600/98.

Date of Decision : 22.7.1999

Shri Naram Mohan Rao

Applicant

Smt. K.U. Nagarkatti

Advocate for
Applicant.

Versus

Secretary, Min. of Defence & Ors.

Respondent(s)

Shri R.K. Shetty

Advocate for
Respondent(s)

CORAM :

Hon'ble Shri Justice R.G.Vaidyanatha, Vice - Chairman.

(1) To be referred to the Reporter or not? *u*

(2) Whether it needs to be circulated to
other Benches of the Tribunal? *u*

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.600/98

Thursday this the 22nd day of July, 1999

Coram : Hon'ble Shri Justice R.G. Vaidyanatha, Vice
Chairman

Shri Naram Mohan Rao,
217, Tata Camp, Aundh Gaon,
Behind Bhairvnath Temple,
PUNE - 411 007. .. Applicant.

By Advocate Smt.K.U. Nagarkatti.

V/s.

1. The Secretary,
Ministry of Defence,
Govt. of India,
New Delhi.
2. D.G. E.M.E. (EME CIV 3),
M.G.O.'s Branch.
Army Headquarters,
DHQ PO New Delhi-110 001.
3. The Commandant,
512, Army Base Workshop,
Khadki, Pune-411 003.
4. The HQS. Tech. Group EME,
(T.E.O.),
Delhi Cantt. 10. .. Respondents.

By Advocate Shri R.K. Shetty.

ORDER (Oral)

(Per : Justice R.G. Vaidyanatha, Vice Chairman)

This is an application for claim of pensionery
benefits. The Respondents have filed their reply. Heard
both the Counsel regarding admission.



2. The applicant was working as Electrician at Vehicle Depot, Dehu Road. He resigned from his post with effect from 26.5.1976. Now, he has filed an application for a declaration that he must be deemed to have retired voluntarily with effect from 26.5.1976. He wants the letter of resignation to be treated as voluntary retirement.

3. The Respondents have filed objections opposing the application and admission.

4. The Counsel for the applicant, states that the applicant left the service due to domestic problems and the applicant's resignation letter should be deemed to have been treated as a voluntary retirement. The learned Counsel for the Respondents states that the O.A. is not maintainable, as the cause of action of the applicant has arisen in April, 1976 whereas, he has filed this O.A. in 1999, hence this Tribunal has no jurisdiction and that the scheme for voluntary retirement from service came into force only with effect from 26.8.1977. Therefore, whether the letter was for voluntary retirement or resignation makes no difference, as the scheme for voluntary retirement was introduced only in the year 1977.

5. However, this Tribunal has jurisdiction only to those cases where the cause of action had occurred 3 years prior to the constitution of the Tribunal under the

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Administrative Tribunals Act, 1985. This Tribunal was constituted with effect from 2.11.1985, three years back will take us to 2.11.1982. Here in this application the cause of action had arisen in May, 1976 since the prayer is to treat and declare the letter of resignation of 1996 as a letter of voluntary retirement and therefore it will not come under the jurisdiction of this Tribunal in respect of a cause of action which had occurred long prior to the constitution of the Tribunal under the Administrative Tribunals Act, 1985. The present application, is filed in 1999 seeking for a relief of considering his resignation letter as a letter for voluntary retirement. The cause of action in this case had occurred prior to 22 years i.e. in May, 1976. The application is therefore, hopelessly barred by time. The applicant has also filed M.P.No.808/98 praying for condonation of delay, but no valid grounds are given for condoning the delay of 22 years. Hence the M.P. for condonation of delay is liable to be rejected and consequently, the O.A. is liable to be dismissed even on the ground of limitation.

Hence I find that there is no merit in this O.A.

6. In the result, the application alongwith M.P.No.808/98 are hereby rejected. No costs.

R. G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN.