

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

(2)

O.A.NO. 1145/92 : Date of order: 26.11.93

S.C.Dhawan : Applicant.

Mr. J.K.Kaushik : Counsel for applicant.

VERSUS

U.O.I. & Ors. : Respondents.

Mr. Praveen Balvada : Counsel for respondents.

CORAM:

HON'BLE MR. JUSTICE D.L.MEHTA, VICE CHAIRMAN

HON'BLE MR. P.P.SHRIVASTAVA, ADM.MEMBER

PER HON'BLE MR. JUSTICE D.L.MEHTA, VICE CHAIRMAN

Heard, the learned counsel for the parties. The applicant has challenged the order Annexure.A/1 dated 15.12.1986 by which he was informed that he has resigned from Government Service and he is not entitled for the gratuity. He has also challenged the order dated 16.2.1987 by which he was informed that his case for the grant of pension was considered and he is not entitled for the gratuity and pensionary benefits.

Applicant in his petition submitted that he submitted his resignation of 26th May, 86 and the same was accepted by the competent authority vide letter dated 12.8.1986. The ~~show~~ cause action accrued to the applicant on 12.12.86 when the request for the grant of gratuity was rejected on the ground that the person who resigns is not eligible for the grant of gratuity. Similarly his further request was on 6.2.1987

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vide Annexure A/2. Thus, the application is time barred so far the gratuity and other pensionary benefits as referred in Annexure A/1 & A/2.

Mr. Praveen Balvada has referred CCS Rules 1972, Rule 26 provides that resignation from a service or a post be withdrawn in the public interest by appointing authority entered forfeiture of the past service. Thus, it is a case of forfeiture of the past service according to Mr. Praveen. He has also submitted CCS temporary Rules 1965 rule 10 Sub, rule 3 clause 1. this will provides that no gratuity shall be admissible under this rule to a Government Servant who resigns his post or who is removed or dismissed from service as a disciplinary measure. The applicant is not entitled for the benefits prayed for Mr. Kaushik has cited before us the case of M/s. J.K.Cotton Spg. & Wg. Mills Company Ltd. Kanpur Appellant Vs. State of U.P. & Ors. This is a case in which the lordships have considered the meaning of the word resignation in para.8 the lordships have held that the meaning of the term "resign" as found in the Shorter Oxford Dictionary includes retirement.

This observations by the lordships was made while considering the provisions of U.P. Industrial Dispute Act, 1947 and particularly Sec.2(00). The judgment of the Hon'ble Court does

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not apply at we are not dealing with a case of retrenchment. The matter before the Lordships was whether the resignation or a voluntary retirement falls within a perview of retrenchment or not, their lordships have held that neither resignation nor voluntary retirement feels within perview of retrenchment under Sec.2(00) of the Industrial Disputes Act, 147 U.P. This judgment is not applicable in the present case so far as we are ^{concerned} concerned the matter of the applicant is not based on the Industrial Dispute Act and he is not entitled for the benefit. The petition is also time barred we ^{have} ~~are~~ decided the case on merits also and the O.A. has no force. The same is rejected.


(P.P. SRIVASTAVA)
Adm-Member


(D.L. MEHTA)
Vice Chairman
