

(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.513/93

Date of Order: 11.11.93

BETWEEN:

Smt. Sudha Joshi

.. Applicant.

A N D

The General Manager,
Telephones,
Hyderabad Telecom Dist.
HYDERABAD

.. Respondents.

Counsel for the Applicant

.. Mr.S.Srinivasa Sarma

Counsel for the Respondent

.. Mr.V.Bhimanna

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER(JUDL.)

ISTB
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T. S. R.

(H3)

This is an application filed under Section 19 of the Administrative Tribunals Act by the applicant herein to appoint the applicant's son Jaidev on compassionate grounds in any suitable post and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this O.A. in brief are as follows:-

2. One Sudhakar Joshi is the husband of the applicant herein. The said Sudhakar Joshi was working as Office Assistant in the Office of the General Manager, Telecom Hyderabad. The said Joshi submitted his resignation on 1.7.1983 and pressed for its acceptance. Administration however, tried to persuade the said Sudhakar Joshi to withdraw his letter of resignation. The said Joshi not only seems to have been adamant in withdrawing his resignation but also absented himself from 1.7.1983. As the efforts of the Administration to ^{en}persuade the Joshi to withdraw his resignation failed, the Administration passed orders on 3.8.84 accepting the resignation of the said Joshi w.e.f. 1.7.1983. Thereafter the said Joshi approached this Tribunal and filed O.A.254/86 with the prayer to direct the respondents to grant him pension and gratuity w.e.f. 1.7.83. The said O.A.254/86 was disposed of by this Tribunal as per its judgement dated 22.12.1986, this Tribunal gave a direction to the respondents in O.A.254/86 as follows:-

20/12/86

"In view thereof, we adjourn the case to 15.2.1987, with a direction to the Department to consider the applicant's application for grant of pension and gratuity, and we also clarify that his application before this Tribunal shall not preclude the Department from treating his resignation as his request for voluntary retirement and give him consequential benefits."

3. The said Sudhakar Joshi filed another O.A.203/88 claiming Rs. 3 crores as damage from respondents and also for his reinstatement into service. O.A.203/88 was disposed of by this Tribunal by observing as here under:-

"In accordance with the Central Administrative Tribunal aware in OA.254/86 dt. 11.3.87 and the DCP & T New Delhi letter cited above the resignation tendered by Sri Sudhakar Joshi, Ex-T.O.A. vide his letter dt. 1.7.83 which was accepted w.e.f. 1.7.83 after noon is treated as his request for ~~voluntary retirement~~ to have been permitted to retire voluntarily from service w.e.f. 2.7.83 Fore-Noon. He is not entitled to seek reinstatement in service at later date. The applicant does not deny that he is getting pension pursuant to this order. However, the order is sought to be impugned in this application. The applicant describes the order as "illegal, treating of resignation as voluntary retirement" (and also contempt of Court). The relief sought is damages of Rs.3 crores.

The office has raised the following objections as to maintainability:-

It is submitted that relief for damages is not a condition of service and he has to necessarily go to a Civil Court.

In answer to the office objections, the applicant states that the action of the respondent amounts to cheating and in which case, the proper forum is only Criminal Contempt.

In either way, the application filed by him appears not maintainable by this Tribunal."

4. In view of the suggestion of this Tribunal the department agreed to convert the resignation of the applicant into one for voluntary retirement and the said Sudhakar Joshi ^{had} become eligible for pension. The competent ^{had} authority passed orders that the applicant was entitled for pension w.e.f. 2.7.83 after noon as his resignation was treated as voluntary retirement. So, accordingly the said Joshi was paid all pensionary benefits as admissible to him w.e.f. 2.7.83. At present the said Joshi is getting a monthly pension of Rs.461/- plus relief thereon.

20/8/88

T. C. P.

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5. While so, the said Joshi submitted a representation dated 5.10.1989 to the competent authority to appoint his son Mr. Jaidev in any suitable post on compassionate grounds. The said representation was rejected by the competent authority. The applicant herein (Sudha Joshi) submitted a representation on 28.2.92 requesting the competent authority to provide an appointment ~~on~~ to her son on compassionate grounds treating the voluntary retirement of her husband as retirement on medical ~~grounds~~. The representation of the said Mrs. Sudha Joshi (applicant herein) for appointment on compassionate grounds was rejected on 27.4.92. Again she put in a further representation on 30.12.92 which was also rejected. So, the present OA is filed by the applicant for the relief as already indicated above.

6. Counter is filed by the respondents opposing this O.A.

7. This OA was listed on 10.11.93 for final hearing. None was present on behalf of the applicant and there was no representation on behalf of the applicant. Mr. V. Bhimanna, Standing Counsel for the respondents reported ready. So, this O.A. was ordered to be listed for dismissal for today (11.11.93). Today also there is none on behalf of the applicant. As the applicant is not evincing any interest in the O.A., the Standing Counsel for the respondents Mr. V. Bhimanna is heard and this O.A. is disposed of.

8. It is not in dispute in this O.A. that the said Sudhakar Joshi was working as Office Assistant in the office of the General Manager, Telecom, Hyderabad in the year 1983. It is also not in dispute that he submitted resignation w.e.f. 1.7.83. It is also not in dispute his resignation was accepted on 3.8.84 w.e.f.

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w.e.f. 1.7.83. It is also not in dispute that in view of the order passed by the Tribunal in O.A.254/86 that the respondents had treated the resignation of the applicant w.e.f. 1.7.1983 as voluntary retirement. So, in view of the judgement in O.A.254/86 there cannot be any doubt about the fact that the applicant must be deemed to have voluntarily retired w.e.f. 1.7-83.

9. One of the grounds urged in the O.A. 254/86 that the said Sudhakar Joshi must be deemed to have retired on medical invalidation grounds and in view of this position that his son J.Jaidev has a right to be considered for appointment in any suitable post on compassionate grounds. Absolutely no material is placed before us to show that the said Sudhakar Joshi has to be treated to have retired on medical invalidation grounds. It is not open for this Tribunal to go beyond what had been stated in the judgement in O.A.254/86. From the judgement in O.A.256/86 it is quite evident that the applicant should be deemed to have retired voluntarily. Now the question before the Tribunal is whether the family members of a government employee who had voluntarily retired can seek an appointment on compassionate grounds? Appointments on compassionate grounds are generally made with regard to the cases where a govt. servant dies while in service or a government servant who has retired on medical invalidation grounds. The benefit of appointment on compassionate grounds cannot be extended to those employees who had voluntarily retired. So, in view of this position the said J.Jaidev son of Mr. and Mrs. Joshi

T. C. J.

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absolutely has no right to be considered for appointment on compassionate grounds.

10. Even otherwise on merits also there appears to be no case for the applicant. As already pointed out the said Joshi should be deemed to have ~~been~~ retired voluntarily w.e.f. 1.7.83. He is getting a monthly pension of Rs.461/- plus relief. He had received some other

the respondents that the applicant herein the wife of said ~~Sudhakar~~ Joshi is employed as a Teacher. No rejoinder is filed by the applicant herein refuting the said averment namely that the applicant herein is employed as a Teacher. So, as Sudhakar Joshi is getting a pension of Rs.461/- plus relief and as his wife (applicant) seems to be employed as Teacher it cannot be said that the family of the said Joshi is placed in such indigent circumstances that the family will not be able to get on without the assistance of an appointment on compassionate grounds. It is needless to point out that compassionate appointments are ordinarily made only in cases where the families are in distress and indigent circumstances and where without the assistance of an appointment on compassionate grounds that the said family will not be able to survive. The case on hand is not one such case. So, in view of this position we do not have any hesitation to come to the conclusive that this OA is liable to be dismissed and is accordingly dismissed. The parties shall bear their own costs.

as the deceased employee or his family
employee had retired on medical invalidation grounds

(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 11th November, 1993

(Dictated in Open Court)

sd

Dy. Registrar (Judl.)

contd - 7/-

O.A-513/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI :MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR.R.RANGARAJAN :MEMBER(A)

Dated: 11/11/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.No.

O.A.No.

513/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

tribunal
3 DEC 1993
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