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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR

Date of order : 17.1.1994.

O.A. No. 252/1993

MADAN SINGH

: Applicant

Mr. D. K. Swami

: Counsel for applicant

Vs.

UNION OF INDIA AND ORS.

: Respondents

Mr. Praveen Bhalwadia

: Counsel for respondent

CORAM :

The Hon'ble Mr. Gopal Krishna, Judicial Member

The Hon'ble Mr. O. P. Sharma, Administrative Member

HON'BLE MR. O. P. SHARMA, ADMINISTRATIVE MEMBER :

Shri Madan Singh has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to grant the applicant all pensionary benefits treating him retired voluntarily w.e.f. 1.9.90 with interest at 18% p.a. He has further prayed that the communication dated 15.7.92 (Annex. A/7) by which he was informed that his notice for voluntary retirement cannot be accepted be quashed.

2. The facts of the case as stated by the applicant are that he joined the Telecommunications

Department as Linemar on 20.6.1958. He got promotion from time to time. When he was working as Sub Inspector (Telephones), Gangapur under the administrative control of Telecom District Engineer(T.D.E.), Bhilwara, he made an application on 6.6.1990 seeking voluntary retirement from service w.e.f. 1.9.1990. The application was received in the office of T.D.E., Bhilwara on 6.6.1990 itself. On not receiving any response from the T.D.E., respondent no.4, he sent reminders. Eventually, he received a communication dated 12.9.1990 (Annex.A/4) informing him that his case has been referred to Director, Telecom, Udaipur. He received a further communication dated 15.7.1992 (Annex.A/7) from T.D.E., Bhilwara informing him that he had been absent from duty without prior information since 1.2.1990 till the date of this communication. He was further informed that a charge sheet had been issued to him by communication dated 29.7.1991 and another charge sheet had been issued by communication dated 22.4.1992. Since two charge sheets had been issued to him under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, the applicant could not be permitted to take voluntary retirement. The applicant has stated that when he sought voluntary retirement w.e.f. 1.9.1990, no disciplinary or other proceedings were pending or contemplated against him, therefore, he was entitled to retire voluntarily w.e.f. 1.9.1990.

3. The application was admitted on 3.9.1993. Three opportunities were given to the respondents to file reply but no reply has been filed so far. The right to file the same shall stand ~~stand~~ forfeited. We have heard the learned counsel for the parties and have gone through the records.

4. The applicant made an application on 6.6.1990 seeking voluntary retirement. Since he had joined service in 1958, he had completed more than 32 years of service on the date on which he applied for voluntary retirement. His application for retirement would, therefore, be considered both under F.R. 56(E) and Rule 48 of the Central Civil Services (Pension) Rules. The applicant gave notice of less than three months seeking voluntary retirement. He was expected to give notice of three months and if the notice given is less than three months he could request the government to permit him to curtail the notice period. Any how, even if the notice given is of less than three months the government could have treated him as having retired from service on expiry of a period of three months i.e. w.e.f. 6.9.1990.

5. The two charge sheets referred to by respondent no.4 in his communication dated 15.7.1992 (Annex.A/7) are of 1991 and 1992. Obviously, no charge sheet had been issued to the applicant in 1990. On the date when the applicant gave notice of voluntary retirement and the date by which it can be



effective, on expiry of a period of three months from the date of notice, no charge sheet had been issued to the applicant. Since no departmental or other proceedings were pending against the applicant till that date, his notice of voluntary retirement stood automatically accepted on expiry of a period of three months from the date of the receipt of notice by the respondents. There is only one circumstance in which notice of voluntary retirement may not be accepted by the government and that is if the applicant is under suspension. There is no mention in Annex.A/7 that the applicant was under suspension on the date on which he gave notice of voluntary retirement or the date on which the notice period should have expired.

6. The respondent no.4 has also stated in Annex.A/7 that the applicant has been absenting himself from duty without prior information since 1.3.1990. Even if it is so, the applicant continued to be in regular service without being under suspension during the period when he was reportedly absent from duty without prior information. This is not a circumstance to justify non acceptance of the notice of voluntary retirement given by the applicant.

7. In the circumstances we hold that the applicant was entitled to voluntary retirement from service w.e.f. 6.9.1990, the date on which the three month period after giving of notice dated 1.6.1990 had expired. The respondents are accordingly directed

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to treat the applicant as having voluntarily retired w.e.f. 6.9.1990. They are further directed to grant him the pensionary benefits due to the applicant as per rules within a period of four months from the date of receipt of a copy of this order.

8. The application is allowed accordingly with no order as to costs.

(O.P.Sharma)

Adm. Member

G.Krishna
(Gopal Krishna)
Jdgl. Member

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