

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

OA No. 260/93

Date of order : 22.9.1993

P.C. Sharma

...

Applicant.

versus

Union of India & Ors.

...

Respondents.

Mr. Prahlad Singh, Counsel for the applicant.

Mr. K.N. Shrimal, Counsel for the respondents.

CORAM:

Hon'ble Mr. B.B. Mahajan, Adm. Member.

Hon'ble Mr. Gopal Krishna, Judicial Member.

...

PER HON'BLE MR. B.B. MAHAJAN:

P.C. Sharma has filed this application with the prayer for directing the respondents to accept his application for voluntary retirement from the date he had completed 20 years of qualifying service i.e. 8.3.1993. Another prayer was made for payment of retirement benefits with interest @ 24% per annum and the salary from the month of October, 1992 onwards till his retirement with interest @ 24%.

2. The applicant wrote a letter on 2.1.93 (Annexure A/2) to the Development Commissioner

(Handicrafts), his appointing authority, for confirmation that he had completed 20 years qualifying service for pension on 8.3.93, as he intended to seek voluntary retirement under Rule 48-A of CCS (Pension) Rules. No reply was sent to this letter inspite of reminders except that vide letter dated 19.1.93 (Annexure A/4), he was directed to take up the matter with the Assistant Director Marketing & Service, Extension Centre, Jaipur. The applicant accordingly wrote to the Assistant Director vide his letter dated 26.1.93 (Annexure A/5). The respondents have stated in their reply that the application of the applicant for sanction of leave is still pending and that he will complete 20 years qualifying service only ^{if} this leave is sanctioned. They have stated that no notice has been given by the applicant to the appointing authority as required by Rules 48-A of CCS (Pension) Rules, 1972. The respondent had asked the applicant to appear before Board of Medical experts for second opinion regarding the genuineness of the disease for which he had applied for medical leave. The applicant has since appeared before the Medical Board during pendency of the OA.

3. We have heard the learned counsel for the parties. The respondents have stated that his leave application could be decided only after receipt of opinion of the Medical Board. Since that opinion would have by now been given and the applicant wishes to seek voluntary retirement on completion of 20 years qualifying service, we direct the respondents to take decision on the leave application within a month of the receipt of this order.

4. From perusal of the record we do not find any notice for voluntary retirement having been given. All the correspondence is for verification of the qualifying service on the ground that he intends to seek voluntary retirement. However, the intention of the applicant from his application dated 2.1.93 (Annexure A/2) and 1.4.1993 (Annexure A/7) was apparently to give notice for retirement on the date he completes 20 years qualifying service. The letter dated 2.1.1993 may, therefore, be treated as notice under Rule 48-A of CSS (Pension) Rules, 1972 for voluntary retirement on completion of 3 months' notice period. If the leave is sanctioned, the applicant may be treated to have voluntary ^{retired} retirement.

from 2.4.93 with all consequential benefits. If in view of the report of the Medical Board the leave is not sanctioned, letter dated 2.1.1993 may not be treated as notice for voluntary retirement as he would not have then completed 20 years of qualifying service. It may be mentioned that by interim order of the Tribunal dated 26.5.1993, the respondents were restrained from compelling the applicant to resume duty in pursuance of their letter dated 16.4.93 (Annexure A/1). In the event of his medical leave not being sanctioned he may, therefore, be allowed another opportunity to resume duty. Parties to bear their own costs.

G. Krishna
(GOPAL KRISHNA)
Judicial Member

B. B. Mahajan
(B. B. MAHAJAN)
Adm. Member

CVR.