

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 446/2000 199
T.A. No.

DATE OF DECISION 19.7.2001

Laxmi Narain Petitioner

Mr. Mahendra Singh Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent

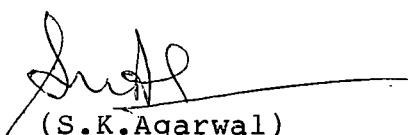
Mr. N.C. Goyal) Advocate for the Respondent (s)
Mr. Hemant Gupta)

SCORAM :

The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

The Hon'ble Mr. XX

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(S.K. Agarwal)
Member (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.446/2000

Date of order: 19/7/2001

Laxmi Narain, S/o Sh. Surjaram, R/o 114/416, Sector 11, Agarwal Farm, Mansarovar, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini. of Mines, Deptt. of Mines, Shastri Bhawan, New Delhi.
2. Dy. Director General, Geological Survey of India, W. Region, Jhalana Dungri, Jaipur.
3. Director & Head of Office, Geological Survey of India, W. Region, Jhalana Dungri, Jaipur.

...Respondents.

Mr. Mahendra Singh : for the applicant
Mr. N.C. Goyal) : for respondents.
Mr. Hemant Gupta)

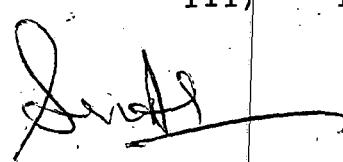
CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member.

PER HON'BLE MR S.K. AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes the following prayers:

- i) The impugned orders dated 31.1.2000, 29.2.2000, 9.8.2000, 16.8.2000 and 16.8.2000 may kindly be declared ultra vires and unconstitutional and may be quashed and set aside.
- ii) The impugned action of the respondents in removing and relieving the applicant on 1.2.2000 without objectively considering the effect of the applicant's withdrawal of his voluntary retirement notice may kindly be declared ultra vires and unconstitutional and may be set aside.
- iii) The impugned actions of the respondents and



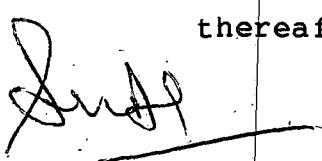
consequential decision taken by them for not permitting the applicant to continue in service placing reliance upon the enquiry conducted behind the back of the applicant by the Enquiry Committee may be declared illegal, ultra vires and unconstitutional and may be quashed and set aside.

iv) It may kindly be declared and directed that the applicant having withdrawn his notice of voluntary retirement before the acceptance thereof become effective the applicant is entitled to continue in service.

v) The respondents may be directed to reinstate the applicant with effect from the date when he was removed from service, i.e. 1.2.2000 with all consequential benefits.

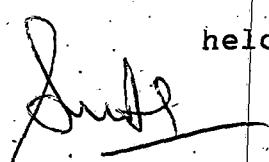
vi) Rule 48(2) of the CCS(Pension)Rules may kindly be declared unconstitutional and ultra vires and may kindly be struck down.

2. In brief facts of the case as stated by the applicant are that while he holding the post of Store Keeper (T), M.M.Division, the applicant submitted an application to respondent No.2 on 24.1.2000 seeking voluntary retirement w.e.f. 31.1.2000. On 31.1.2000, respondent No.3 passed an order whereby voluntary retirement desired by the applicant was to be accepted w.e.f. 1.2.2000. It is stated by the applicant that before the voluntary retirement could become effective, the applicant submitted a communication on 31.1.2000 seeking to withdraw his offer of voluntary retirement. The said communication was received by one Sh.K.M. Gupta, for placing the same on the table of Deputy Controller of Stores for onward transmission and further action. But despite the aforesaid fact, the applicant was arbitrarily relieved from service on 1.2.2000. The applicant thereafter submitted various representations but with no

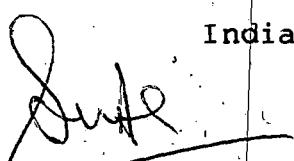


result. It is stated that the respondents constituted two Members Enquiry Committee to enquire into the issue as to whether the representation dated 31.1.2000 as stated by the applicant had or had not been received in the office on 31.1.2000. It is stated that the said enquiry committee however, did not afford any opportunity of hearing to the applicant and the so called enquiry was conducted behind the back of the applicant. It is stated that the respondents instead of objectively considering the representation so submitted by the applicant has passed orders dated 9/10.8.2000 and 16.8.2000 respectively asking the applicant to submit the pension papers and to collect his post retirement benefits. It is stated that the applicant has revoked his offer of voluntary retirement before it was made effective. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply it is stated that the applicant was rightly released w.e.f. 1.2.2000 (forenoon) in terms of Rule 48(1) of the CCS(Pension) Rules. It is also stated that the office of the respondents has not received any request for withdrawal of voluntary retirement of the applicant by 31.1.2000, therefore, respondent No.3 has rightly informed the applicant vide his letter dated 29.2.2000. It is also stated that no enquiry was held in this connection, therefore, question of giving show cause notice/opportunity of hearing does not arise. It is stated that the applicant participated in the Panchayat Election for the post of Sarpanch of Panchayat Papurna, Distt.Jhunjhunu and for contesting this election he sought voluntary retirement w.e.f. 31.1.2000 which is alleged to be held in the first week of February 2000 and due to short



period he could not give 3 months' notice for voluntary retirement. Therefore, the applicant requested to condone the three months period as per clause 1-A(a) under Rule 48(1) of the CCS(Pension) Rules and requested to accept the voluntary retirement in the afternoon of 31.1.2000 to enable him to file his nomination paper for the said Panchayat Election. It is also stated that the applicant had contested the Panchayat Election for the post of Sarpanch, Gram Panchayat Papurna and he was defeated. It is also stated that the office order dated 31.1.2000 was received by the applicant himself by which his request for voluntary retirement was accepted, therefore, the submission of the letter of withdrawal for voluntary retirement dated 31.1.2000 appears to be far from truth. It is stated that the applicant never came in the office from 1.2.2000 to 22.2.2000 and the applicant never contacted the authorities for making his signature in the attendance register. It is also stated that Sh.K.M.Gupta was not a proper person to whom the letter dated 31.1.2000 is alleged to have been given by the applicant. It is also stated that Sh.K.M.Gupta, Stores Supdt, on 24.2.2000 has stated in his letter that under acute pressure he acknowledged the receipt of the application as on 31.1.2000 whereas the application was received by him on 23.2.2000. The Deputy Controller of Stores vide his letter dated 24.2.2000 brought this fact to the notice of the Dy.Director General by enclosing the letter received from Sh.K.M.Gupta. It is also stated that the applicant was the employee of the respondents is well aware of the fact as to where the Receipt & Despatch work is done and Head of the Department of Geological Survey of India, Western Region Jaipur is Deputy Director General and



his office performs the work of receipt & despatch of letters and no other authority is empowered to do such work in such circumstances, the applicant has not explained why the letter of withdrawal of voluntary retirement dated 31.1.2000 was submitted by the applicant to Sh.K.M.Gupta, Store Supdt, who was not all authorised to accept such letters. It is, therefore, stated that the applicant has no case and this O.A devoid of any merit is liable to be dismissed.

4. Heard the learned counsel for the parties for final disposal at the stage of admission and also perused the whole record.

5. The learned counsel for the applicant vehemently argued that the applicant has withdrawn his offer of voluntary retirement before it was made effective, therefore, in view of the judgments of the Apex Court, the applicant is entitled to the relief sought for. In support of his contention, he has referred the following judgments:

- i) Balram Gupta Vs. UOI & Anr, 1987(Supl) SCC 228
- ii) Power Finance Corp. Ltd Vs. Pramod Kumar Bhatia, (1997) 4 SCC 280

iii) J.N.Srivastava Vs. UOI & Anr. (1998) 2 SCC 559

iv) State of Haryana & Ors Vs. S.K.Singhal, (1999) 4 SCC 293

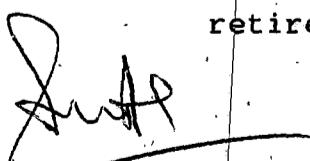
6. With respectful perusal of these judgments delivered by the Apex Court, the legal position as it emerges is that offer of voluntary retirement can be withdrawn at any time before it is made effective. But the question arises in the instant case is whether the applicant has withdrawn his offer of voluntary retirement before it was made effective.

7. Admittedly, as per the order dated 31.1.2000 issued by respondent No.3, the voluntary retirement of the

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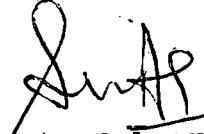
applicant was effective from 1.2.2000 (forenoon).

8. The case of the applicant in nutshell is that he gave a letter seeking withdrawal of his offer of voluntary retirement on 31.1.2000 to Shri K.M.Gupta for being placed on the table of Dy.Controller of Stores for onward transmission and further action. But according to the respondents, this letter never reached to the department before the voluntary retirement of the applicant was made effective i.e. w.e.f. 1.2.2000 (forenoon). What was the hitch for the applicant for not submitting such important letter to the concerned authority and if the concerned authority was not available on the seat then why he has not submitted the letter to the receipt/despatch section which is authorised to receive such communication, this fact has not been properly explained by the applicant in this O.A. In this case the applicant did not like to deliver such important letter either to the person in authority or to despatch/receipt section instead of this according to the applicant he delivered this letter to Shri K.M.Gupta, who in turn on 24.2.2000 has given in writing to the department that under acute pressure he was given the receipt to the applicant on 23.2.2000 acknowledging the receipt of the letter as on 31.1.2000 to which there is no rejoinder. It is also clear from the averments of the parties that the applicant sought voluntary retirement to contest Gram Panchayat Election, Papurna, for the post of Sarpanch, which was to be held in the first week of February 2000 and the applicant contested the election and was defeated. It is also clear from the averments of the parties that the applicant received the order of acceptance of his voluntary retirement w.e.f. 1.2.2000 (forenoon) on 31.1.2000 then how



considered opinion that the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

12. I, therefore, dismiss the O.A having no merit with no order as to costs.


(S.K. Agarwal)

Member (J).