

Central Administrative Tribunal
Jabalpur Bench

OA No.502/05

Jabalpur, this the 17th day of November 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Chandra Kumar Sharma
S/o Shri Ram Prasad Sharma
Ex-Serviceman
LDC, Ordnance Factory, Itarsi.
R/o H.No.18/163, Niranjan Ward
Gadarwara
District Narsinghpur (M.P.)

Applicant

(By advocate Shri Manish Chowra)

Versus

1. Union of India
through Secretary
Ministry of Defence
New Delhi
2. The Board of Directors
Ordnance Factory Calcutta
10-A, Shahid Khudi Ram Road
Kolkata.
3. General Manager
Ordnance Factory Itarsi
District Hoshangabad (M.P.)

Respondents.

(By advocate Shri Harshit Patel on behalf of
Shri S.C.Sharma)

ORDER

By A.K.Gaur, Judicial Member

The Original Application has been filed seeking the following
reliefs:-

- (i) Quash the order dated 2.9.98 (A-5) whereby the application seeking voluntary retirement of the applicant has been rejected by the respondent.

(ii) Quash the order dated 4.3.99 (A-6) whereby the applicant has been imposed with the punishment of removal from service by the respondent.

(iii) Quash the order dated 24.5.99 (A-7) whereby the period of unauthorized absence of the applicant has been declared as 'dies non'.

(iv) Direct the respondents to grant civil pension to the applicant on the basis of 30 years of qualifying service after counting his past military service under Rules along with all consequential benefits.

2. The applicant, an ex-serviceman, after having been declared medically unfit was discharged from service on 30.11.1983. Thereafter he was re-employed as LDC in the Ordnance Factory, Itarsi. The applicant continued on this post from 1985 to 1997. On 19.4.97, the applicant submitted an application for voluntary retirement w.e.f. 1.7.97 with a prayer to count his 13 ½ years of past military service for the purpose of pension. This application was rejected by the respondents on the ground that the applicant did not submit his option within time. It has been averred by the applicant that he sought voluntary retirement because of the health problems he faced due to continuous chemical exposure in his posting place in the Ordnance Factory. The applicant completed 11 ½ years as LDC and 13 ½ years in the Signal Training Centre. It has been stated in the OA that the applicant submitted an option in 1990 for counting his past military service (A-1) which, according to the applicant, was misplaced by the respondents. Thereafter the applicant submitted another option in 1998, as per the direction of the department (A-3). After submitting the application for voluntary retirement, the applicant stopped attending duties, which, according to the applicant, resulted in initiation of departmental proceedings against him for unauthorized absence (A-4). Thereafter the applicant was imposed with the penalty of removal from service vide order dated 4.3.99 (A-6). Vide A-7 order dated 24.5.99, the period of unauthorized absence was declared as 'dies non'. Despite a number of representations made by the applicant for counting his past military service towards

pension, the respondents have not taken any action in that regard; hence the applicant has filed this OA seeking the aforesaid reliefs.

3. The respondents in their reply statement have contended that the original application is time barred as it has been filed after a lapse of more than six years from the date of orders under challenge. Apart from the delay, the applicant has not exhausted the departmental remedy of filing appeal against the order of penalty, as provided in CCS (CCA) Rules. The applicant has also prayed for plural remedies, which is not permissible as per Rule 10 of CAT (Procedure) Rules, 1985.

4. We have carefully considered three legal grounds advanced on behalf of the respondents and we proceed to discuss them one by one. The first legal objection is that the OA is time barred. The applicant has filed an application for condonation of delay supported by an affidavit wherein no justifiable ground has been stated for condoning the delay. The ground stated in the application is that he is a heart patient and is undergoing medical treatment at Jabalpur. No medical certificate or any proof in this regard has been attached along the application in order to justify the cause. Merely on the basis of a bald statement that he is a heart patient, the delay cannot be condoned. The applicant has failed to specify any reasonable or plausible ground for condonation of delay in filing the original application.

5. The second objection is that the applicant has not filed any appeal against the order of removal. Under the CCS (CCA) Rules, a statutory remedy of appeal is provided against the order of removal. The applicant has failed to avail this remedy. Hence on this ground also, the OA is liable to be dismissed.

6. The third ground taken by the respondents is that the applicant has sought plural remedies in the OA. Rule 10 of CAT (Procedure) Rules 1987 reads as under:

“An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.”

(4)

7. In the present case, the reliefs claimed by the applicant are not consequential to one another. The applicant has sought three different reliefs i.e one for quashing the order by which his application for voluntary retirement has been rejected by the respondent, second for quashing the order by which he has been imposed with the penalty of removal from service and third for quashing the order whereby the period of unauthorized absence has been declared as dies non. On this ground also, the OA is not sustainable. On merits also, the applicant has no case. The applicant did not avail several opportunities granted to him for attending departmental inquiry. Despite several letters asking for reporting for duty, the applicant remained absent unauthorizedly. Hence he was proceeded against under Rule 14 of the CCS Rules. Though the applicant received the charge sheet on 9.1.98, he did not submit any written statement defence. The applicant did not attend the inquiry. Thus the inquiry officer conducted the inquiry ex parte. The inquiry report was forwarded to the applicant vide memo dated 18.12.98 directing him to make a representation or submission, if any, in writing to the disciplinary authority within 15 days, but no representation was received from the applicant. The disciplinary authority accordingly found him guilty of the charges and imposed the penalty of removal from service vide order dated 4.3.99.

8. In view of the above discussion, the OA is liable to be dismissed on aforesaid three legal grounds and also being devoid of merits. Accordingly the OA is dismissed. No costs.

A.K.Gaur
(A.K.Gaur)
Judicial Member

G.C.Srivastava
(Dr.G.C.Srivastava)
Vice Chairman

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पूछावन सं. शो/ज्ञा..... जलपुर, दि.....
परिविधि दाता/दिवा/.....
(1) शोध, ज्ञा/प्राप्ति/..... के काउंसल
(2) शोध, ज्ञा/प्राप्ति/..... के काउंसल
(3) शोध, ज्ञा/प्राप्ति/..... के काउंसल
(4) शोध, ज्ञा/प्राप्ति/..... के काउंसल
सुनाए एवं अधिकार अद्याद्य दिये

Munish Chawla *Dr. J.S. Srivastava*
J.C. Sharma *Dr. A.O.V. Jha*

for Prakash Singh
22/11/06

18/11/06
22/11/06