

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR

Original Applications No 708 of 2004

Jabalpur, this the 20th day April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

M.D. Ahirwar S/o Shri Nand Lal
Ahirwar, age 59 year, Occupation
Retd. A.A.O. in A.G. Office(Audit-I) Gwalior,
Residence Prakh Ji Ka Bad Daulatganj,
Lashkar, Gwalior.

Applicant

(By Advocate – Shri N.K. Saxena)

V E R S U S

1. Union of Indian through Secretary
Union of India, Office New Delhi.
2. Comptroller Auditor General of India,
New Delhi.
3. Accountant General(Audit) I, Moti
Mahal Lashkar, Gwalior.

Respondents

(By Advocate – Shri M.Rao)

O R D E R

By Madan Mohan, Judicial Member –

By filing this OA, the applicant has sought the following main relief :-

“ Direction may be given to provide mercy appointment to any one out of son of daughter as per qualification.”

2. The brief facts of the case are that in the beginning of December 1996, the applicant has been suffering from mental disease and he had to admit himself in the mental hospital at Gwalior on 11.12.1996 and he remained under treatment till 31.12.1996. Under



these circumstances of the mental disease, he wrote an application for voluntary retirement to the respondents on 28.9.2001 and the application was sanctioned. According to the applicant he was completely mentally disturbed and was unable to protect himself from mental disturbances. The applicant has wife, two sons and two daughters. There is no member employed in the family except the applicant to enable to earn money for lively hood for running family financially. The applicant has requested to the respondents to provide job to any one out of son or daughter as per their qualification. But the respondents have refused to provide mercy appointment. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant argued that the applicant never sought any voluntary retirement in his perfect mental condition. The alleged application for voluntary retirement was moved by him when he was mentally disturbed. There is no earning member in his family to maintain his family. He has two sons and two daughters who are educated and he applied for compassionate appointment to be granted to any member of his family. However, the respondents have refused to give the compassionate appointment in favour of his son or daughter. The learned counsel for the applicant further argued that the compassionate appointment can be provide to the family members of the Govt. servant by the department, who is retired on medical grounds under Rule 2 of the CCS(Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants). Hence, the applicant is entitled for the reliefs claimed.



5. In reply, the learned counsel for the respondents argued that the applicant applied for voluntary retirement vide his application dated 28.8.2001 with one month notice. When he applied for voluntary retirement he had not completed 33 years of service and the same was short by 1 year and 11 months. The period prescribed for superannuation and for normal pension is 33 years and at the time of retirement applicant's length of service was 31 years 1 month and 18 days. However, the respondents accepted applicant's one month's notice and he was allowed to retire voluntarily w.e.f. 28.9.2001 vide order dated 12.9.2001. The applicant have been paid all the retiral benefits. In the present OA, he has sought for compassionate appointment for his sons or daughters on the ground of invalid pension scheme. The applicant retired voluntarily hence he cannot claim any compassionate appointment for his sons or daughters. The learned counsel for the respondents further argued that the case of the applicant is not covered by clause 2(a) of the scheme inasmuch as the scheme for compassionate appointment is applicable to a Govt. servant who died while in service or is retired on medical grounds before attaining the age of 55 years. The applicant did not fulfill any of the above conditions. He took his voluntary retirement on 28.9.2001 at the age of 56 years and 8 months and got all retiral benefits of 33 years of service with weightage of one year and eleven months.

6. After hearing the learned counsel for the parties and on perusal of the records, we find that the applicant had moved the application on 28.8.2001(Annexure-R-2) for voluntary retirement. It is in his own hand writing and he has not denied that it was not moved by him. Thereafter, the respondents have issued order dated 12.9.2001(Annexure-R-3) bywhich the prayer of the applicant for voluntarily retirement was accepted and all the retiral dues have been paid to the applicant. So far as the scheme for compassionate appointment it provides that for the Govt. servant who died while in



service or is retired on medical grounds under Rule 2 of the CCS(Medical Examination) Rules 1957 or corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years(57 years for Group 'D' Government servant). We also find that the applicant belongs to Group 'C' post and at the time of his retirement his age was 56 years and 8 months. Hence, the applicant cannot take benefit of the aforesaid provision for compassionate appointment for any of his dependents.

7. After considering all the facts and circumstances of the case, we find that the OA is bereft of merits and is accordingly dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठोक्त सं ओ/नं०.....जयलपुर, दि.....
प्रतिनिधि आदेशिका—
(1) सचिव, राज. जयलपुर, जयलपुर, जयलपुर
(2) आदेशिका, जयलपुर, जयलपुर
(3) प्रत्यक्षी, जयलपुर, जयलपुर
(4) जयलपुर, जयलपुर, जयलपुर
सूचना एवं आनवश्यक कार्यवाही हेतु

skm

K.K. Saxena
020 M.D. Sharma
twl.
M. B. G. N. N.
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Received
On 4.05.05
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