

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 174 of 2003

Jabalpur, this the 2nd day of April 2003.

Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)
Hon'ble Mr. A.K. Bhatnagar - Member (Judicial)

Chhotelal Sharma,
aged about 51 years,
s/o Late Shri D.R. Sharma,
R/o In front of Sindhu Kalyankari
Bhawan, Nai Basti,
Katni, Distt. Katni. (MP)

-APPLICANT

(By Advocate - Mr. S. Nagu)

VERSUS

1. Union of India,
through the Secretary,
Ministry of Defence Production
and Supplies,
Government of India,
South Block,
SANKALP,
New Delhi.
2. Chairman,
Ordnance Factory Board,
10-A Shaheed Khudiram Bose Road,
Kolkata (West Bengal)
3. General Manager,
Ordnance Factory Katni,
Katni (MP)

- RESPONDENTS

(By Advocate- Mr. S.A. Dharmadhikari)

ORDER (ORAL)

By R.K. Upadhyaya, Member (Admnv.):

The applicant has filed this O.A. seeking quashing of the factory order dated 6.3.2003 by which he has been struck off the strength of the Ordnance Factory Katni (O.F.K. for short) w.e.f. 8.3.2003 (A/N) and has been directed to report to O.F. Itarsi on or before 19.3.2003 (F/N). The applicant has further sought a direction to the respondents that he may be allowed to voluntarily retire as per factory order dated 18.2.2003 w.e.f. 30.4.2003 (A/N).

On 5th April 2003

Contd.. P/2.

2. The applicant, who has been working as Labour Grade-D in the Ordnance Factory, Katni was initially transferred to Tiruchrapalli, and against the transfer order the applicant had filed Original Application No.840/2002 and this Tribunal by an order dated 10.12.2002 had directed the respondents to re-consider the retention of the applicant at Katni or nearby place preferably in Hindi speaking area. Aggrieved by the order of this Tribunal, the applicant had approached the Hon'ble High Court of Madhya Pradesh at Jabalpur and filed a Writ petition. The applicant had also made a representation for considering his retention at Katni or in the alternative for posting to nearby place as per order of this Tribunal. The applicant had challenged the order of his transfer to Tiruchrapalli ~~from~~ ^u Ordnance Factory, Katni before the Hon'ble High Court of Madhya Pradesh, Jabalpur. The applicant had stated that he has filed petition for voluntary retirement on 28.1.2003. The respondents had accepted the voluntary retirement as per factory order dated 18.2.2003 w.e.f. 30.4.2003. Before the Hon'ble High Court of Madhya Pradesh in WP No.7203/2002, it was also urged that the applicant has now withdrawn the voluntary retirement. Before it could become effective ~~xx~~ the Hon'ble High Court in WP No.7203/2002 by their judgement dated 26.2.2003 dismissed the Writ Petition in view of the posting of the applicant to Ordnance Factory, Itarsi. After the judgement of the Hon'ble High Court of M.P. was pronounced on 26.2.2003, the applicant has again filed a petition with the respondents seeking to retire as per factory order dated 18.2.2003.

3. The learned counsel for the applicant states that because of his personal problems, the applicant is not

in a position to join at Itarsi. Therefore, he has finally decided to retire. According to him, even if the applicant has been relieved from O.F.K., he can still be retired from there without insisting upon the applicant to join at Itarsi.

4. The learned counsel for the respondents states that the applicant deserves no leniency, as he has been trying to abuse the process of law. Once the applicant had asked for retirement, an order dated 18.2.2003 was passed. He had also sought direction to ~~re-~~ consider the transfer order to the Tiruchrapalli that was also considered and the applicant was posted at Itarsi. He has been relieved from the O.F.K. w.e.f. 8.3.2003. Therefore, retirement from OFK, if so ordered, will only amount to abuse ^{of} the process of law.

5. After considering the arguments of the learned counsel of both the parties and after perusal of the material available on record, we are of the view that an employee, who ultimately has decided not to work may not be insisted to join at Itarsi. Therefore, we direct the respondents to exercise their discretion, if necessary, and the applicant may be deemed to have relieved w.e.f. 8.3.2003 on voluntary retirement, being the date on which he has been struck off from the roles of O.K.Katni. The respondents may waive the notice period as permissible under rules. The applicant will not be entitled to any extra benefits on account of his transfer to O.F. Itarsi, as he will be deemed to have retired on 8.3.2003 itself. The ~~retiral~~ dues, if any, may be paid to the applicant as per rules.



6. In view of our directions in the preceding paragraph, this O.A. is disposed of without any order as to costs.

(A.K.Bhatnagar)
Member (Judicial)

(R.K.Upadhyaya)
Member (Admnv.)

MA

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प्रकाशन से ओ/न्या.....जलपुर, दि.....
प्रतिरिद्धि अग्रे दिन—
(1) राजित उद्योग विभाग द्वारा उद्योगान, जलपुर
(2) उद्योग विभाग द्वारा काउंसल S. Nagur, 30/4
(3) उद्योग विभाग द्वारा काउंसल S. A. Sharadchikan, 30/4
(4) योग्यता द्वारा, जलपुर व्यायोमित
सूचना एवं आवश्यक कार्यवाही हेतु

उपरिकार 7.4.03

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on 7.4.03
BS