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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : INDORE

Original Application No.1002 of 2000

Indore, this the 13th day of January, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Purushottam Malani s/o late Shri Sugnamal Malani,
Aged 58 years, Ex-Manager, Employees State
Corporation, Corporation Mill Area Local Office,
Indore, r/o C-10, Panchdeep Nikunj, Nanda Nagar,
Indore - APPLICANT

(By Advocate - Shri D.M.Kulkarni)

Versus

1. Director General, Employees State Insurance Corporation, Panchdeep Bhawan, Kotla Road, New Delhi.
2. Regional Director, Employees State Insurance Corporation, Panchdeep Bhawan, Nanda Nagar, Indore - RESPONDENTS

(By Advocate - Shri Vivek Saran)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

The applicant has filed this Original Application seeking to hold the impugned order declining the application for withdrawal of voluntary retirement of the applicant as illegal; and direct the respondents to treat the applicant in continuous service on the post of Manager from the date his voluntary retirement was accepted; with all consequential benefits with interest at the rate of 18%.

2. The brief facts of the case are that the applicant while he was working as Manager, Employees State Insurance Corporation, Indore has tendered three months Notice dated 31.12.1999 for voluntary retirement with effect from 31st March, 2000. The notice was accepted by the competent authority vide impugned order dated 10.2.2000 (Annexure-A-2). He has withdrawn the aforesaid notice dated 31.12.1999 vide his letter dated 22.3.2000 (Annexure-A-3) i.e. 10 days

mbh

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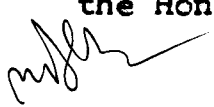
before the last date of expiry of the notice period. The respondents have, however, rejected the application of the applicant for withdrawal of notice of voluntary retirement, vide impugned order dated 17.4.2000 (Annexure-A-8).

3. The respondents in their reply have stated that the applicant was retired from service of the respondents with effect from 31.3.2000 and has already drawn pension, gratuity, leave encashment, provident fund including commutation of pension on 14.9.2000. Filing of this O.A. on the part of the applicant after receipt of all the retiral benefits shows the applicant's malafide intention and particularly when the applicant did not mention in his OA about receipt of these retiral benefits. Therefore, this O.A. deserves to be dismissed. The respondents have also stated that the request of the applicant for withdrawal of notice of voluntary retirement was not accepted by the competent authority as per the provisions of Sub-rule(2) of Rule 48 of Central Civil Services (Pension) Rules, 1972, which reads as under-

"A government servant who has elected to retire under the rule and has given the necessary intimation to that effect to the appointing authority, shall be precluded for withdrawing his election subsequently except with the specific approval of such authority provided that the request for withdrawal shall be within the intended date of his retirement".

The learned counsel for the respondents contended that as no specific approval was given by the competent authority for withdrawing the application for voluntary retirement, hence the action taken by the respondents is as per the rules and this OA is liable to be dismissed.

4. Heard the learned counsel for the parties and perused the record. The learned counsel for the applicant in support of his contention has relied on the decision of the Hon'ble Supreme Court in the case of J.N.Srivastava Vs.




Union of India and another, 1998 SCC (L&S)1251.

5. The short question involved in this case is whether the applicant was entitled to withdraw his notice of voluntary retirement submitted by him on 31st December, 1999 which was to come ^{into} effect from 31st March, 2000. It is true that the applicant's notice for voluntary retirement was accepted by the authorities on 10.2.2000, but before 31st March, 2000, the applicant wrote a letter on 22.3.2000 to withdraw his voluntary retirement i.e. before the intended date of retirement of 31st March, 2000. The said request for permitting him to withdraw voluntary retirement was rejected by the respondents by their communication dated 17.4.2000 (Annexure-A-8). Thereafter, the applicant has approached this Tribunal by filing the present O.A.

6. We have gone through the decision of the Hon'ble Supreme Court in the case of J.N.Srivastava (supra) and we find that the present case is fully covered by the said decision. In this view of the matter, we allow this O.A. with the following directions -

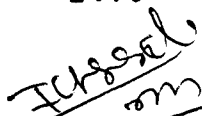
The impugned order dated 17.4.2000 (Annexure-A-8) is quashed and set aside. The respondents are directed to treat the applicant to have continuously worked till the date of actual superannuation and grant him all arrears of salary and other emoluments including increments and to get his pensionary benefits refixed accordingly. However, this will have to be subject to adjustment of pension amount and other retirement benefits already paid to him in the meantime, upto the date of his actual superannuation.

No costs.


(G. Shanthappa)
Judicial Member


(M.F. Singh)
Vice Chairman.

rkv.


29-1-04

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पलिलिपि काको दित:-

- (1) सचिव, उच्च न्यायालय वर एडोकिशुशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/सु.....के काउंसल M Kulkarni
- (3) प्रत्यक्षी श्री/श्रीमती/सु.....के काउंसल V. Saran, Adm
- (4) कोषपाल, कोषाल, जबलपुर न्यायाधीश