

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH

CIRCUIT AT INDORE

Date of Order : 03.09.2003

O.A. No. 454/1998.

Om Prakash Sharma, aged about 55 years, S/o Shri Genda Lal Sharma, Occupation-Postal Assistant (treasurer), Head Post Office, Khargone M.P. R/o 48, Shani Gali, Indore, Madhya Pradesh.

... Applicant.

versus

1. Union of India through the Secretary to Government of India, Ministry of Communication, New Delhi.
2. The Director General, Postal Services (Dak Bhawan), Sansad Marg, New Delhi.
3. The Post Master General, Indore Region, Indore, M.P.
4. The Superintendent of Post Offices, Khandwa Division, Khandwa, M.P.

... Respondents.

Shri K.K. Srivastava counsel for the applicant.

Shri S. A. Dharmadhikari counsel for the respondents.

CORAM

Hon'ble Mr. V. K. Majotra, Administrative Member.

Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :

(per Hon'ble Mr. V. K. Majotra)

The applicant has challenged the order dated 30.05.1997 (Annexure A-2), whereby his application for voluntary retirement had been rejected on the ground that disciplinary proceedings under Rule 14

of the CCS (CCA) Rules, 1965, were pending against him and also that the application for voluntary retirement has been rejected in terms of Government of India Instructions No. 1(iii) under Rule 48-A of the CCS (CCA) Pension Rules.

2. Admittedly as per Annexure A-4 dated 09.01.1990 the disciplinary proceedings against the applicant under Rule 14 of the CCS (CCA) Rules, 1965, were pending as also that criminal proceedings (Criminal Case No. 2182/90) dt. 28.02.90) in the Court at Khandwa were also pending against the applicant.

3. As per Rule 14 of the CCS (CCA) Rules, disciplinary proceedings under this rule are initiated for imposing major penalties. Instruction No.1 (iii) under Rule 48-A of the CCS (Pension) Rules, reads as follows :-

"(iii) Guidelines for acceptance of notice - A notice of voluntary retirement given after completion of twenty years' qualifying service will require acceptance by the appointing authority if the date of retirement on the expiry of the notice would be earlier than the date on which the Government servant could have retired voluntarily under the existing rules applicable to him (e.g., F.R.56(k), Rule 48 of the Pension Rules, Article 459 (i) of C.S.Rs. or any other similar rule). Such acceptance may be generally given in all cases except those (a) in which disciplinary proceedings are pending or contemplated against the Government servant concerned for the imposition of a major penalty and the disciplinary authority, having regard to the circumstances of the case, is of the view that the imposition of the penalty of removal or dismissal from service would be warranted in the case, or (b) in which prosecution is contemplated or may have been launched in a Court of Law against the ~~unlawful~~ Government servant concerned. If it is proposed to accept the notice of voluntary retirement even in such cases, approval of the Minister-in-charge should be obtained in regard to Group 'A' and Group 'B' Government servants and that of the Head of the Department in the cases of Group 'C' and Group 'D'.

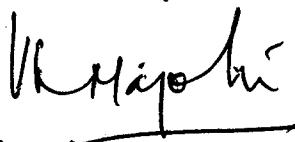


Government servants. Even where the notice of voluntary retirement given by a Government servant requires acceptance by the appointing authority, the Government servant giving notice may presume acceptance and the retirement shall be effective in terms of the notice unless the competent authority issues an order to the contrary before the expiry of the period of notice."

4. It is clear from these instructions relating to guidelines for acceptance of notice of voluntary retirement even after completion of 20 years of qualifying service, it is stated that acceptance of notice for voluntary retirement may be generally given in all cases except in which disciplinary proceedings are pending or contemplated against the Government servant concerned for the imposition of a major penalty and the Disciplinary Authority is of the view that the imposition of penalty of removal/from service would be warranted in the case. Such an action is also contemplated in cases in which prosecution is contemplated or is launched in a Court of Law against the Government servant concerned. In the instant case, not only that disciplinary proceedings for imposition of major penalty in terms of Rule 14 of the CCS (CCA) Rules had been initiated against the applicant, criminal case was also pending against the applicant. In this view of the matter, the Competent Authority rejected the notice of voluntary retirement submitted by the applicant as disciplinary proceedings under Rule 14 of the CCS (CCA) Rules as also criminal proceedings against the applicant were pending at the relevant time.

5. Having regard to the facts and rules as discussed above, we do not find any infirmity in the impugned order. Accordingly this OA is dismissed. However, without any order as to costs.


(J. K. KAUSHIK)
MEMBER (A)


(V. K. MAJOTRA)
MEMBER (A)