

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.389/2005 with MA No.285/2005.

Jaipur, this the 2nd day of September, 2005.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

Giriraj Pd. Sharma
S/o Shri Sheo Dayal
Aged about 64 years,
R/o B-C-54, Pratap Nagar,
Tonk Phatak,
Jaipur.

... Applicant.

By Advocate : Shri P. N. Jatti.

Vs.

1. Union of India through
Secretary to the Government of India,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi.
2. The Principal Chief Postmaster General,
Rajasthan Circle,
Jaipur.
3. The Senior Superintendent,
Railway Mail Service, JP Dn.,
Jaipur.

... Respondents.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for the following reliefs :-

“8.1 That by a suitable writ/order or the direction the pension with the other benefits be allowed to the applicant. The pensionary benefits be allowed to the applicant with effect from September 1973 with all consequential benefits.

8.2 That the amount of GPF contribution be paid to the applicant, with the amount of Gratuity with a reasonable interest on the delay payment of the above amount.

8.3 any other relief which the Hon'ble Bench deems fit."

2. The facts of the case are that the applicant was appointed as Sorter in the year 1962 by the respondents department. He continued in that capacity till September 1973. It is further alleged that the applicant sought voluntary retirement in the year 1973 which was accepted by the respondents in September 1973. The grievance of the applicant is that since he has rendered 11 years of service in the department of Post and Telegraph up to September 1973, as such, he is entitled for retrial benefits in terms of the judgment rendered by the Lucknow Bench of CAT in case of Om Prakash Singh Maurya vs. Union of India and Others, OA No.353/1994 decided on 14.9.1998 reported in 11/99 Swamynews 74.

3. I have heard the Learned Counsel for the applicant at admission stage. I am of the view that this OA is required to be dismissed on more than one ground. Firstly, the cause of action in favour of the applicant has arisen in the year 1973 when the applicant sought so called voluntary retirement from the department. In view of the decision rendered by the Principal Bench in the case of V. K. Mehra vs. the Secretary Min. of I & B (Delhi), reported in ATR 1986 CAT 203, the Tribunal has

no power to entertain a grievance arising out of an order made prior to 1.11.1982 in view of the provisions contained under Section 21 of the Administrative Tribunals Act, 1985.

4. That apart, even on merit, the applicant has got no case. The decision which has been relied upon by the applicant is not a good law in view of the subsequent decision rendered by the Apex Court in the case of Union of India & Ors. vs. Rakesh Kumar, 2001 Vol.3 SLJ 257, whereby it has been laid down that for the purpose of voluntary retirement, the person should put in 20 years of service as contemplated under Rule 48-A. The applicant when sought retirement in the year 1973, Rule 48-A of CCS (Pension) Rules 1972, was not in the Statute Book. At that time, a person can sought voluntary retirement after the completion of 30 years of service as contemplated under Rule 48 of the CCS (Pension) Rules 1972. Admittedly, the applicant has not put in 30 years of service at the relevant time and he has only put in 10 years of service, as such, the applicant was not entitled for pensionary benefits, even if, he has resigned from the service.

5. In view of what has been stated above, the present OA is bereft of merit and is accordingly dismissed in

W limine.

6. In view of the order passed in OA, no order is required to be passed in MA No. 285/2005 filed for condonation of delay.



(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./