

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S) .

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
	<p><u>21.10.2009</u></p> <p><u>OA No. 426/2009</u></p> <p>Mr. C.B. Sharma, Counsel for applicant. Mr. V.S. Gurjar, Counsel for respondents.</p> <p>Heard learned counsel for the parties..</p> <p>For the reasons dictated separately, the OA is disposed of.</p> <p> (B.L. KHATRI) MEMBER (A)</p> <p>AHQ</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 21st day of October, 2009

ORIGINAL APPLICATION No.426/2009

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISITRATIVE MEMBER

Brat Raj Singh,
Assistant Farm Manager,
(T-6), Central Sheep & Wool Research Institute,
Avika Nagar (Malpura),
District Tonk (Raj).

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
Secretary to the Govt.,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.
2. Director,
Central Sheep & Wool Research Institute (CSWRI),
Avika Nagar (Malpura),
District Tonk.
3. Sr.Administrative Officer,
O/o Director,
Central Sheep & Wool Research Institute (CSWRI),
Avika Nagar (Malpura),
District Tonk.

... Respondents

(By Advocate : Shri V.S.Gurjar)

ORDER (ORAL)

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

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"That the respondents be directed to allow the applicant to work as Assistant Farm Manager at Avika Nagar (Malpura) by quashing order dated 17.8.2009 (Ann.A/1) with all consequential benefits.

OR

As alternate, respondents be directed to accept request for voluntary retirement w.e.f. 30.11.2009 by allowing the applicant to work at Avika Nagar (Malpura)."

2. During the course of arguments; learned counsel for the applicant has not pressed the first prayer of the applicant for cancellation of the transfer order dated 17.8.2009 (Ann.A/1). Now, this OA is confined only to the second prayer of the applicant regarding acceptance of the request for voluntary retirement.
3. Brief facts of the case are that while working as Assistant Farm Manager in the respondent department at Avika Nagar (Malpura), District Tonk, the applicant has been transferred to Mannavanur (Kodaikanal) Tamilnadu, vide order dated 17.8.2009 (Ann.A/1). The applicant made representations against the said transfer but to no avail.
3. The applicant thereafter has solicited voluntary retirement, vide application dated 21.8.2009 (Ann.A/6), on the ground that because of health problems of the applicant and his wife, he is not in a position to move to Mannavanur (Kodaikanal) Tamilnadu. But the said request of the applicant was also not accepted by the respondents for the reason that he had solicited conditional voluntary retirement. He had already been transferred to Mannavanur (Kodaikanal) Tamilnadu and has also been allowed Transfer Travelling Allowance (TTA) as also an advance of one month salary.
4. Learned counsel for the applicant submitted that the respondents may be directed to accept the voluntary retirement, as per his application dated 21.8.2009 (Ann.A/6), from the place

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of present posting i.e. Avikanagar. The applicant has sought voluntary retirement for the reason that he and his wife have been continuously suffering from illness and have not been maintaining good health and hence the applicant is not in a position to work at such a distant place where he has been transferred.

5. Learned counsel for the respondents has vehemently contested this OA and contended that request of the applicant for conditional voluntary retirement was not justified at this stage without joining at the transfer place i.e. Mannavanur (Kodaikanal) Tamilnadu. After joining at the place to which he has been transferred, he should submit a proper application, through proper channel, seeking voluntary retirement.

6. I have heard the rival submissions and perused the relevant record as well as rules on the subject. Learned counsel for the applicant had relied upon Rule 48-A of the CCS Pension Rules, which provides that a government servant who has completed 20 years' qualifying service, may, by giving notice of not less than three months in writing to the appointing authority, retire from service. Sub-rule (2) of Rule 48-A provides that the notice for voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority.

7. From perusal of the aforesaid provisions, it is evident that a government servant, who seeks voluntary retirement, is not supposed to give any reason for the same. However, in the present case, the applicant has also given reason of his ill-health and of his spouse due to which he is not in a position to perform official duty properly at such a distant place.

8. I do not agree with the contention of the respondents/learned counsel for the respondents that conditional voluntary retirement cannot be accepted. Rules on the subject provide for notice not less than three months in writing to the appointing authority for voluntary retirement. Application for

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voluntary retirement can be given with or without reasons. If any government servant gives reasons, he cannot be debarred from seeking voluntary retirement under the rules. In case, the applicant is directed first to report for duty at Mannavanur (Kodaikanal) Tamilnadu, and thereafter within a couple of days he seeks voluntary retirement, the government will be put to a loss as on such a transfer an expenditure of approximately two lakh would be incurred.

9. Under such circumstances, the respondents are directed to accept the request of the applicant for voluntary retirement from the present place of posting i.e. Avikanagar within a period of fifteen days from the date of receipt of this order. Consequently, the transfer order dated 17.8.2009 (Ann.A/1) should also be cancelled.

10. During the course of hearing, learned counsel for the applicant had produced a copy of the application dated 15.10.2009, filed by the applicant before the Senior Administrative Officer, Avikanagar, whereby the applicant has given undertaking that in case his request for voluntary retirement is accepted, he would deposit the amount of TTA as well as the amount of advance of one month's salary. In case, the applicant fails to deposit the said amount within a period of fifteen days from the date of acceptance of the voluntary retirement, the respondents will be at liberty to recover the said amount from the applicant as per rules.

11. In the result, the OA is allowed as per the direction contained in this order. No order as to costs.


(B.L.KHATRI)
MEMBER (A)

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