

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

R.A.NO.060/00066/15 in
O.A No. 060/01113/2014

Date of decision : 28.10.2015

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)

Harpal Singh Son of Sh. Jeet Singh, R/o Gali No. 4/2, Baba Farid Nagar, Bathinda (Punjab).

APPLICANT

BY ADVOCATE: None.

VERSUS

1. Union of India through its Secretary Ministry of Defence, New Delhi.
2. The Director General of Ordnance Services, IHQ of MoD (Army), DHQ PO New Delhi.
3. The Commandant, Field Ammunition Depot, Bathinda Cantt.

RESPONDENTS

BY ADVOCATE: None.

ORDER(BY CIRCULATION)
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

The applicant, who is an ex-serviceman and getting pension had tendered resignation from service vide letter dated 20.2.2014 (Annexure A-1) w.e.f. 28.2.2014. His resignation was accepted w.e.f. 28.2.2014. He got issued a legal notice on 24.3.2014 and 3.4.2014 for withdrawal of the same which was turned down on 7.6.2014 and his claim for retiral dues was turned down as he had completed only 12 years of service. The Original Application challenging aforesaid action was dismissed on

18.8.2015 holding that the applicant submitted an application for voluntary retirement (resignation) on 20.02.2014 requesting the relevant authority to accept his request w.e.f. 28.02.2014(A/N). He further requested to waive of the conditions of three months notice period or deposit salary for three months before resignation as a special case. His request was considered by the Commandant on the same very date and the applicant was also given personal hearing, who gave his affirmation with regard to his request for voluntary retirement and it was accepted on 20.02.2014. The request of the applicant for withdrawal of resignation by legal notice was dated 24.03.2014 i.e. after the intended date and that is too after the acceptance of his request. Therefore, the Court did not find any illegality in the impugned order which was found to be in consonance with law pronounced on the subject.

2. Now the R.A. has been filed by the applicant pleading that the applicant had applied for "the voluntary retirement" and never tendered "resignation" and as such his case should have been considered as a case of voluntary retirement in view of term used in para 11 of the order under review. Secondly it is argued that applicant had prayed for vide letter dated 24.1.2014 for premature retirement due to health problem and death of his wife. However, fact remains that applicant had subsequently on his own volition submitted letter dated 20.2.2014 seeking resignation from service. The legal notice, Annexure A-2 talks of withdrawal of resignation notice. Subsequent notice also talks of

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withdrawal of resignation notice. So, the documents on record clearly indicate that the applicant had tendered resignation from service and had not applied for voluntary retirement. Use of word voluntary retirement in the order under review will not change the factual position that the applicant had applied for grant of resignation from service. In view of this, we do not find that any error has taken place which may warrant review of the order. The other pleadings raised by applicant indicate re-arguing of the case all over again which is not permissible under review jurisdiction.

3. This Tribunal can review its decision on the grounds which fall within the four parameters of order 47 rule 1 CPC. The expression "any other sufficient reason" appearing in Order 47, Rule 1 CPC, 1908 has to be interpreted in the light of other specified grounds. An error which is not self evident and which can be discovered by a long process of reasoning cannot be treated as an error on the face of record justifying exercise of power under Section 22 (3)(f) of Administrative Tribunals Act, 1985. An erroneous order cannot be corrected in the guise of exercise of power of review. While considering an application for review, this Tribunal is required to confine itself to adjudication with reference to the material which was available at the time of initial decision. Happening of some subsequent event or development cannot be taken note of for declaring initial order or decision as vitiated by an error apparent on record. Mere discovery of new or important material or evidence is not sufficient for

review. The party seeking review has to show that such matter or evidence was not within its knowledge and even after exercise of due diligence, the same could not be produced before the Tribunal earlier.

4. In view of the aforesaid, there is no ground for review of the order in question. The R.A. is accordingly dismissed by circulation.

(SANJEEV KAUSHIK)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 28th October, 2015

HC*