

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.4249/2015

This the 30th day of September, 2016

Hon'ble Shri P.K. Basu, Member (A)

Ms. Asha Gupta, Supervisor (Retd.)
Aged 59 years, D/o Shri B P Gupta
R/o House No.52, Sector-13, Vasundara-201012
Ghaziabad, UP. ..Applicant

(By Advocate: Shri P C Mishra)

Versus

1. Chief Secretary
Govt. of NCT of Delhi
5th Level, Delhi Secretariat, IP Estate
New Delhi.
2. Director, Department of Women & Child Development
Govt. of NCT of Delhi, 1, Canning Lane
K G Marg, New Delhi-110001. ...Respondents

(By Advocate: Shri N K Singh for Mrs. Avnish Ahlawat)

O R D E R (ORAL)

The applicant who worked as Supervisor in ICDS project, Seema Puri, submitted an application for voluntary retirement on 03.06.2014 addressed to CDPO, Seemapuri Project. The respondents issued order dated 29.08.2014 stating that the applicant will stand voluntarily retired from Govt. service under Rule 48 of CCS (Pension) Rules, 1972 w.e.f. 31.08.2014.

2. On 01.09.2014, the applicant made a representation to the Director, D/o Women and Child Development, who is in-charge of the ICDS Project stating that she wishes to withdraw her letter of

voluntary retirement. She again made a representation on 13.10.2014 to the Director for a decision on her letter for withdrawal of the VRS notice. The Competent Authority, namely, the Director, after considering the representation, conveyed his decision vide letter dated 26.11.2014 of not to accept the request for withdrawal of VRS on the ground that Rule 48(a) provides that a Govt. servant who had submitted voluntary retirement notice is precluded from withdrawing the same subsequently except with the specific approval of the competent authority and the request of withdrawal has to be within the intended date of retirement, which in this case was 30.08.2014 and the request of withdrawal was received only on 01.09.2014.

3. The applicant is aggrieved by order dated 29.08.2014 treating her as voluntarily retired w.e.f. 31.08.2014 and prays for quashing of that order on the following grounds:-

(1) The original application dated 03.06.2014 was addressed to CDPO who was not a Competent Authority under Rule 48(a) of CCS (Pension) rules, 1972 and the Competent Authority was the Director. It is argued that, therefore, this application cannot be treated as an application for voluntary retirement.

(2) The applicant was misled into filing the representation for VRS dated 03.06.2014 by certain vested interest due to the reason that the applicant was being considered for her next promotion and in case she opts out under VRS then the next person would get the promotion;

(3) that one Mr. Yogita Gupta who is CDPO Seema Puri, Delhi tried to compel the applicant to pass vague bills which caused tremendous anxiety and mental pressure on the applicant and she went into the nerve break down and depression and was treated in Max Hospital. It is under this stressful condition that she filed letter dated 03.06.2014 seeking voluntary retirement.

4. Learned counsel for the respondents stated that the department has acted exactly according to Rule 48(a) of CCS (Pension) Rules, 1972 which states that withdrawal of VRS option can be with the specific approval of the Competent Authority and that such request should be within the intended date of retirement. It is stated that the competent authority has not approved the request for withdrawal of VRS. Moreover, the request was received in the office of the respondents only on 01.09.2014 i.e., beyond the intended date of voluntary retirement.

5. Heard learned counsel for the parties and perused the relevant facts of the case. Admittedly, the applicant gave a letter dated 03.06.2014 addressed to CDPO requesting for VRS. The said letter was not addressed to the competent authority. When the order dated 29.08.2014 was issued, there were still two days left, namely, 30th and 31 August, 2014 for the applicant to point out that the letter dated 03.06.2014 should be ignored as it is not addressed to the Competent Authority. She could also have filed

her application for withdrawal of VRS in this three days' time. However, this was not done by the applicant. It is stated by the learned counsel for the applicant that 30th and 31st August, 2014 were Saturday and Sunday and the headquarter office was closed. Therefore, though she wrote her request for withdrawal of VRS on 30.08.2014, it could reached the Competent Authority only on 01.09.2014. There is no doubt that the respondents have acted according to the provisions of rules because the applicant had filed her request for voluntary retirement in June 2014 with intended date as 31.08.2014. All of a sudden, after issuance of the order dated 29.08.2014, the applicant wakes up and files an application on 30.08.2014 seeking withdrawal of VRS, which was, however, received after the intended date of retirement i.e. 01.09.2014. Though, these facts cannot be disputed and refuted, however, the fact remains that the applicant is a woman employee and while she had indeed decided to opt for voluntary retirement in June 2014 on an after thought, she did decide to continue in service by withdrawing her request for VRS. Unfortunately, she took too much time to change her mind and committed the technical fault of filing her petition for withdrawal one day beyond the intended date of retirement. I also note the fact that 30th and 31st were Saturday and Sunday. The spirit of rules are not to cause hardship to Govt. servants. Moreover, as stated by the learned counsel for the applicant, she would have continued in service till 31.12.2016. It would thus, be too harsh a decision to deny that

opportunity on mere technicality of a day's delay for which also there are cogent reasons, as stated above. The other issue weighing on my mind is that women employees face lot of bias, discrimination and hardships even today in our country and they should be encouraged rather than discouraged.

6. In view of this, the order dated 26.11.2014, is quashed and the respondents are directed to allow the applicant to continue in service w.e.f. the date she resumes her duty treating the period between 31.08.2014 till the date she resumes her duty, as being 'Not on duty' and this period not to be counted for any purpose of promotions, increments and MACPS etc. It should, however, not be treated as 'break-in-service'. It is also made clear that the applicant cannot claim any pay and allowances for this period. Time frame of 90 days from the date of receipt of a certified copy of this order is fixed for compliance by the respondents. No costs.

(P.K. Basu)
Member (A)

/vb/