

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/01579/2014**

**Dated the 27<sup>th</sup> day of November Two Thousand Eighteen**

**PRESENT**

**HON'BLE MR. T. JACOB, Member (A)**

M.Thirunavukkarasu,  
Technical Supervisor (Retired),  
BCG Vaccine Laboratory,  
Guindy,  
Chennai 600032.

....Applicant

By Advocate M/s. S. Retnaswamy

Vs

1. Secretary,  
Ministry of Health & Family Welfare,  
Nirman Bhavan,  
New Delhi 11.

2. The Director General of Health Services (DGHS),  
Ministry of Health & Family Welfare,  
Nirman Bhavan, New Delhi 11.

3. Director,  
BCG Vaccine Laboratory,  
Guindy,  
Chennai 600032. ....Respondents

By Advocate Mr. K. Rajendran

**ORDER****(Pronounced by Hon'ble Mr. T. Jacob, Member(A))**

Heard. The applicant has filed this OA seeking the following reliefs:

- “i. This Honourable Tribunal may be pleased to call for records from the respondents and after going through them set aside the 2<sup>nd</sup> and 3<sup>rd</sup> respondent's letter No. Z-28014/02/2014-EPI dated 16.09.2014 and No. A.11011/1/2003 Admn dated 22.07.2014 and direct the respondents to pay the applicant ex-gratia amount of Rs. 6,46,412/- (Rupees six lakhs forty six thousand four hundred and twelve only.)
- ii. To pay interest on the ex-gratia amount of Rs. 6,46,412/- (Rupees six lakhs forty six thousand four hundred and twelve only) at the rate of 12% per annum from 02.08.2007 till the date of payment.
- iii. Cost of this application.
- iv. And pass such further order or orders as this Honourable Tribunal is deemed it fit and proper in the circumstances of the case and thus render justice.”

2. The facts of the case as stated by the applicant are as follows:-

The applicant joined the 3<sup>rd</sup> respondent's office on 25.04.1969 as Laboratory Attendant and while working as Technical Supervisor, he retired under the Special Voluntary Retirement Scheme announced by Dept. Of Per. & Trg. OM No. 25013/6/2001-Estt.(A) dated 28.02.2002. He retired on 02.08.2007 FN after putting in a total qualifying service of 38 years 3 months and 7 days leaving a balance left out service of 31 months. Consequent upon the abolition of the post of Technical Supervisor vide Ministry of Health & Family Welfare, New Delhi order No. A-11011/7/98-EPI(BCG)/CC&V, dated 25.06.2007 on the recommendation of the Internal Work Study Unit (IWSU) at BCG Vaccine

laboratory, Chennai and with reference to the option dated 09.07.2007 of the applicant to go on special voluntary retirement as per DoPT OM No. 25013/6/2001-Estt.(A), dated 28.02.2002, the third respondent accepted the option of the applicant for voluntary retirement. Accordingly, the applicant was relieved from service w.e.f 02.08.2007 FN. After voluntary retirement, he submitted various applications for grant of ex-gratia to him as per the special Voluntary Retirement Scheme. Since the claim of the applicant has been rejected by the respondents in their letters dated 22.07.2014 and 16.09.2014, the applicant has filed this OA seeking the above relief.

3. The respondents would submit that the Ministry of Health & Family Welfare, New Delhi conducted Work Measurement Study in the 3<sup>rd</sup> respondent office and recommended abolition of 38 posts. The 38 posts recommended for abolition includes two posts of Technical Supervisor. Subsequently, after due consideration by the Ministry of Health & Family Welfare the competent authority approved abolition of 11 posts with immediate effect that were lying vacant at the time of issue of the order and the remaining 27 posts were treated as abolished from the date of vacation of the post held by the then incumbents in the 3<sup>rd</sup> respondent's office vide order No. A.11011/7/98-EPI (BCG)/CC&V dated 25.06.2007. The post of Technical Supervisor held by the applicant was recommended for abolition by the work study team, but the applicant was not declared surplus. Since the applicant was not declared surplus, there is no

question of opting for availing the benefit of Special Voluntary Retirement Scheme. It is submitted that the contention of the applicant contrary to the above is unacceptable and does not merit any consideration. Hence, the applicant's claim for ex-gratia under Special Voluntary Retirement Scheme is unacceptable. Further, retirement from 3<sup>rd</sup> respondent office pursuant to the offer letter dt. 24.01.2007 could be treated only as voluntary retirement from service under regular course and not under Special Voluntary Retirement Scheme.

4. Learned counsel for the applicant would submit that the applicant has fulfilled all the conditions for payment of ex-gratia under the Special Voluntary Retirement Scheme dated 28.02.2002 as confirmed by the respondents. Since the applicant had put in more than 38 years of service and the balance of service left was 31 months, he is entitled to special ex-gratia as per the Special Voluntary Retirement Scheme.

5. Learned counsel for the respondents would submit that the applicant was never declared surplus and was allowed to work till his vacation of the post of Technical Supervisor. Hence, his retirement from 3<sup>rd</sup> respondent's office should be considered only as regular Voluntary Retirement from service. He contended that the applicant for payment of ex-gratia under Special Voluntary Retirement Scheme does not merit any consideration. Hence, the applicant's claim for payment of ex-gratia with interest deserves to be dismissed in liminie.

6. I have carefully considered the relevant material and rival submissions.

7. The salient features of the Special Voluntary Retirement Scheme for surplus Central Government employees as per the provisions contained in DoPT's OM No. 25013/06/2001-Estt(A) dt. 28.02.2002 for the employees declared surplus are as under :-

- (a) All permanent employees rendered surplus irrespective of their age and qualifying service can opt for the scheme.
- (b) An optee of Special VRS will be entitled to receive an ex-gratia amount equal to basic pay plus Dearness Allowance for the number of days worked out on the basis of length of service @ 35 days for each completed year and 25 days for each remaining year. For any part of a year, the number of days, for ex-gratia amount, will be worked out on the basis of 365 days in a year. The ex-gratia amount will be further subject to the following conditions :-
  - (I) Total number of years to be counted for payment of ex-gratia will not exceed 33 years;
  - (II) No weightage of additional service will be given for the purpose of calculation of ex-gratia;
  - (III) The ex gratia will be subject to a minimum of Rs. 25,000 or 250 days' emoluments, whichever is higher;
  - (IV) The ex gratia amount should not exceed the sum of the basic pay plus DA that the employee would draw at the prevailing level for the

balance of the period of service left before superannuation;

(V) The ex gratia amount will be paid in lumpsum;

(VI) The ex gratia amount up to Rs. 5.00 lakhs will be exempted from Income Tax;

The ex gratia payment under Special Voluntary Retirement Scheme is calculated on the basis of service at 35 days for each completed years and 25 days for remaining years which should not exceed 33 years. In the instant case, the official has entered in the service on 25.04.1969 and relieved on the Voluntary Retirement Scheme on 02.08.2007 F.N. Since, he has completed more than 33 years of service, he is not eligible for ex gratia payment under Special Voluntary Retirement Scheme. Further, the amount of ex gratia should not exceed the sum of the basic pay + DA that the employee would draw at the prevailing level for the balance of the period of service left before superannuation.

(I) Maximum amount admissible under Special Voluntary Retirement Scheme : Rs. 20852 X 250 = Rs. 1,73,767/-.

(II) Basic pay + DA for the remaining left out service before superannuation : Rs. 20852 X 31 months = Rs. 6,46,412/-.

Since the amount payable for the left out service of 31 months is exceeding the ex gratia amount, he is not entitled for ex-gratia payment under Special Voluntary Retirement Scheme. The applicant's non-eligibility for ex gratia payment under the Voluntary Retirement from service as per DoPT OM No.

25013/6/2001-Estt(A) dated 28.02.2002 was intimated to the applicant by 2<sup>nd</sup> respondent vide their letter No. Z.28014/02/2014-EPI dated 16.09.2014 which is in order. When not declared surplus in writing and not having been asked to avail of the concession under 2002 DoPT order, the voluntary retirement of the applicant has to be construed only as an application of retirement under FR 56(k) and not under the surplus scheme. Even if considered otherwise, the fact that the applicant has already rendered 33 years has to be kept in mind and limitation on monetary quantum has also to be kept in view. Thus, none of the conditions gets fulfilled for availing of the concession under the surplus scheme.

8. In view of the above, I find that the OA is devoid of merit and accordingly, the same is dismissed.

9. No costs.

(T.Jacob)  
Member(A)  
27.11.2018

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