

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.227/2019.

Date of Decision: 03.04.2019.

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N. SINGH, MEMBER (J)

Mr. A. Ramesh, Aged 50 years,
Adult, Indian Inhabitant
Retired as Appraising Officer,
New Customs House, Mumbai
R/at 3/46, Customs Quarters,
Five Gardens, Matunga, Mumbai 400 019.
(By Advocate Ms. Jinal Garasia)

... ***Applicant***

VERSUS

1. Union of India,
Through its Commissioner of Customs
(General) having its office at New
Customs House, Ballard Estate,
Mumbai 400 001.
2. The Member (P&V)
The Central Board of Indirect Taxes
and Customs, North Block,
New Delhi 110 001.

... ***Respondents***

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard the learned counsel for the
Applicant.

2. The Applicant has approached this
Tribunal by way of aforesaid OA under
Section 19 of the Administrative Tribunals
Act, 1985 and has challenged the order dated
08.03.2019 (Annex.A-1) vide which the
request of the applicant for withdrawal of

the decision/order of the competent authority about acceptance of his VRS as per Rule 48(A)(4) of Central Civil Services (Pension) Rules, 1972 has been rejected. In the OA, the applicant has sought for the following reliefs:

"8.a) Set aside the order dated 8th March 2019 passed by the Respondent No.1;

8.b) to allow the applicant to withdraw its voluntary retirement application dated 11th June 2018 and to direct the respondent no.1 to reinstate the applicant in its original post with consequential benefits thereof;

8.c) Interim and ad-interim reliefs in terms of prayer clauses (a) and (b);

8.d) Costs of this application;

8.e) Pass any such further order or direction as may be deemed fit, proper and necessary in the interest of justice."

3. The precise facts as contended by the learned counsel for the applicant on the basis of the averment made there in the OA are as under;

That the applicant joined the services of the respondents w.e.f. 26.03.1997 and was

working as Preventive Officer with the Respondent No.1. He was promoted to the post of Appraising Officer in the year 2014-2015. The Applicant has tendered an application dated 11.06.2018 (Annex.A-1(A)) by giving 3 months notice seeking voluntary retirement from the Government service in terms of Rule 48-A of Central Civil Services (Pension) Rules, 1972 and the letter dated 11.06.2018 reads as under;

*"To Dated 11.06.2018
Commissioner of Customs (General)
Jawaharlal Nehru Custom House/New Custom House.*

Sir,

Sub: Application for voluntary Retirement from Govt. Service and thereby given 3(three) months notice for the same in terms of Rule 48-A CCS(P) 1972 from the date of submission of application with availing leave standing to my credit during the notice period from 26.06.2018 to till retirement date.

Most respectfully I beg to inform you that I am working as Appraising Officer in Jawaharlal Nehru Custom House. I desire to take voluntary retirement with effect from date of completion of notice period due to personal and health problems.

I had completed more than twenty (20) years of continuous service in the department.

In connection with above, I would earnestly request your good self kindly consider my case sympathetically and accept my prayer as per laid down in G.O and kindly issue necessary order in this respect as early as possible. Also permit me to avail leave standing o my credit from 26.06.2018 to till retirement date. In this regard if any formalities needs to be followed the same may be informed to me.

Service particulars

Date of entry into Govt. service 26.03.1997

Leave standing to my credit – more than 300 days.

Thanking you,

Yours faithfully

sd/-

A. Ramesh

A.O/JNCH

Ph. 9833040189"

4. In view of the aforesaid notice/request dated 11.06.2018 of the applicant, the competent authority has accepted the request of the applicant for his voluntary retirement from Government service w.e.f. 10.09.2018 (A/N) in terms of Rule 48-A of Central Civil Services (Pension) Rules, 1972 and has communicated the same vide order dated 07.09.2018 (Annex.A-2). The said order dated 07.09.2018 reads as under;

*"Office of the Commissioner of Customs (General)
New Custom House, Ballard Estate, Mumbai.*

F.No.S/5-161/2018 P& E

Date:07.09.2018

ESTT.OFFICE ORDER No.188/2018

Shri A. Ramesh, Appraising Officer vide his application dated 11.06.2018 had given notice for voluntary retirement from Government service. He has completed 23 years and 06 months of qualifying service up to 10.09.2018.

The notice given by Shri A. Ramesh, Appraising Officer is accepted by the Principal Commissioner of Customs (G), NCH, Mumbai-I. Accordingly, the officer is permitted to retire voluntarily from Government service with effect from 10.09.2018 (A/N) in terms of Rule 48-A of the CCS (Pension) Rules, 1972 from this office.

Sd/-

(Jitendra Patel)

*Dy. Commissioner of Customs,
P&E, NCH"*

5. After receipt of the aforesaid order dated 07.09.2018, the applicant is stated to have made a request dated 17.09.2018 to the Principal Commissioner of Customs (General) for withdrawal of his voluntary retirement stating that he had submitted the notice/application for VRS due to some mental tension. His request dated 17.09.2018 is followed by reminders dated 26.09.2018 and 01.10.2018 (Annex.A-5). The representation/request dated 01.10.2018 is stated to be supported by a Medical certificate dated 28.09.2018 wherein the concerned Doctor has certified that the applicant was suffering from major depression and he was under their treatment during the period from 23.05.2018 till 28.09.2018 and in view of his illness he had less interest in all things, having low desire to live and poor self confidence but he has become fit to resume his duties w.e.f. 28.09.2018.

6. When it has been put to the learned counsel for the applicant as to whether the order dated 07.09.2018 accepting the request of the applicant for voluntary retirement

w.e.f. 10.09.2018 (A/N) and or the impugned order dated 08.03.2019 suffers from any illegality or as to whether the same has been passed in violation of any Rule or binding instructions on the subject, the learned counsel for the applicant has very fairly submitted that the same are not in violation of any rule or binding instructions on the subject.

7. However, the applicant has filed the OA for equity and justice as he was under mental depression and tension, as certified by the Doctor in the medical certificate under reference, he had inadvertently submitted the request/ notice for voluntary retirement. However, when it has been put to the learned counsel for the applicant as to whether during the intervening period i.e. his application dated 11.06.2018 seeking voluntary retirement till acceptance thereof vide order dated 07.09.2018 he has been attending his official duties and other activities regularly, she under instructions from the applicant who is present in Court has submitted that he has been regularly attending to his duties and all other

activities.

8. The learned counsel for the applicant further contends that the applicant has filed the present OA only in view of the fact that unless the impugned order dated 08.03.2019 and the order of acceptance of voluntary retirement dated 07.09.2018 are set aside and the applicant is allowed to resume his duties who is still having around 10 years service left to complete the age of superannuation, he and his family may suffer tremendous hardship and agony.

9. We have considered the aforesaid facts and in view of the clear admission of the applicant's counsel that the impugned order dated 08.03.2019 as well as the order dated 07.09.2018 are not in violation of any rule or binding instructions on the subject and coupled with the fact that the applicant has admittedly been discharging all his duties including the office duties during the intervening period i.e. from the date of notice dated 11.06.2018 till the communication of order of acceptance of VRS vide order dated 07.09.2018, we do not find any reason for us to interfere in the impugned order(s).

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10. In view of the above, the OA deserves to be dismissed and the same is accordingly dismissed. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

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