

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/298/2013

New Delhi, this the 8th day of January, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

(Through Shri A.K. Srivastava, Advocate)

Versus

1. Govt. of NCT of Delhi,
Through Chief Secretary
Delhi Secretariat
New Delhi-110002
2. Assistant Commissioner (D)
Delhi Jal Board, Delhi Sarkar
Varunalaya Phase-II, Jhandewalan
Karol Bagh, Delhi-05 ... Respondents

(Through Shri Himanshu Upadhyaya)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service of Delhi Jal Board (DJB) as a Pump Driver on 5.12.1984. Thereafter, he

earned some promotions and by 2009, he was working as Junior Steno. He submitted a letter dated 6.11.2009 to the appointing authority stating that he intends to take voluntary retirement and accordingly he is giving three months notice commencing from that date.

2. The applicant contends that much before the expiry of three months from 6.11.2009, he addressed a letter dated 21.01.2010 withdrawing his letter of voluntary retirement and despite that, no action has been taken thereon. It is stated that at a subsequent stage, communication was sent to him stating that he has already retired and, therefore, his request for withdrawal of voluntary retirement cannot be considered. He filed this OA with a prayer to quash the order dated 1.10.2012 and to direct the respondents to reinstate him and grant all consequential benefits.

3. Respondents submitted a detailed counter affidavit and supporting documents. According to them, the applicant submitted the letter for voluntary retirement on 6.11.2009 and on consideration of the same, the competent authority accepted it on 4.01.2010. It is also stated that consequential orders were issued and the applicant was relieved from service on 6.02.2010. The

respondents further submitted that the so called letter dated 21.01.2010 is an afterthought and it was never received by them. It is also stated that the applicant submitted a letter dated 2.06.2011 after one-and-a-half years of his retirement, with a request to provide re-employment to him and it was not mentioned therein that he has ever made an attempt to withdraw the application for voluntary retirement. Various other contentions were also raised.

4. The applicant filed an additional affidavit narrating some more facts and the respondents filed counter affidavit denying the same.

5. We heard Shri A.K. Srivastava, for the applicant and Shri Himanshu Upadhyaya, for the respondents.

6. It is a matter of record that the applicant submitted letter dated 6.11.2009 with a request to permit to retire him on voluntary basis. The letter reads as under:

“Respectfully it is stated that due to some unavoidable circumstances in my family, I am unable to continue my service in the Delhi Jal Board. I, therefore, submit my three months' notice for voluntary retirement with effect from today i.e. 06.11.2009.

It is requested that my notice for voluntary retirement may kindly be accepted and oblige.”

7. It is true that the applicant had an opportunity to withdraw the request of voluntary retirement before the

expiry of the notice period. Though it is stated that the applicant submitted letter dated 21.01.2010 withdrawing the request for voluntary retirement, there is nothing on record to show that it has been received by the respondents. The competent authority accepted the request of the applicant on 21.12.2009 and a consequential order was issued on 4.01.2010, which reads as under:

“Member (Administration) vide his orders dated 21.12.2009 has accepted the request of Sh. Shripal Verma, Junior Stenographer c/o CEO Cell for his voluntary retirement w.e.f. the forenoon of 6th February 2010 under the provisions of Rule 48-A of CCS (Pension) Rules 1972 subject to the following conditions:-

1. That he will hand over the complete charge of his seat to the satisfaction of his DDO/Controlling Officer.
2. Nothing should be due against him as on date of retirement i.e. 06.02.2010(F/N).”

8. The applicant does not dispute that he has been given the retirement benefits. Though it is stated that the benefits have been received under protest, the record does not support this contention.

9. It is quite likely that there exists some uncertainty on account of assertion of the applicant as regards withdrawal of voluntary retirement by him and denial of same by the respondents. Benefit of doubt which exists in this behalf needs to be given to the applicant. In the instant case, however, there is a clinching evidence to demonstrate that the submission of the letter dated

21.01.2010 withdrawing the request for voluntary retirement is an afterthought.

10. It is not in dispute that the applicant submitted letter dated 2.06.2011 after one-and-a-half years of his retirement with the request to provide re-employment to him. The letter reads as under:

“Respectfully it is stated that due to some my family disputes and unavoidable circumstances, I lost the control over my mind and soul and as a result of being under mental disturbance, I took voluntary retirement from the post of Jr. Stenographer in Delhi Jal Board. Prior to this, I even went to the extent to compel my wife to take voluntary retirement from the Department of Posts, Govt. of India.

It is respectfully stated that I have worked with number of CEOs since 2001 and my performance has been appreciated by them very good/outstanding, which may kindly be seen from my ACR dossier. While in job, I have performed my duty with unblemished record, with great devotion, punctuality and sincerity, therefore, there has not been even a single case against me when I could have been administered with a verbal or written warning/show cause notice from the department.

As I am facing tremendous stress to maintain the status of my family and run livelihood smoothly in the present era, it is requested that I may very kindly be reappointed as Jr. Steno for which I shall ever be grateful to your goodself. I am ready to deposit the amount already paid to me and to accept any other condition imposed upon me. I also submit that neither I have done service any where nor have I been placed in judicial or police custody for any duration during this period.”

11. Nowhere in this letter, there is any mention of an attempt regarding withdrawal of his request for voluntary retirement much less the request letter dated 21.01.2010. The respondents issued a letter dated 28.07.2011 offering contractual engagement to the applicant.

12. Another fact which militates against the applicant is that if he was forced to be relieved from the service in the name of voluntary retirement, he was not supposed to accept any retirement benefits or at least approach the Tribunal claiming the appropriate remedies because only in the year 2013 i.e. three years after he was relieved from service, he has filed this OA.

13. We are not inclined to grant relief to the applicant. The OA is, therefore, dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/dkm/