

**Central Administrative Tribunal
Principal Bench**

RA No. 260/2018 and
CP No.671/2018 in
OA No.3025/2017
MA No. 5247/2018

This the 22nd day of January, 2019

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

RA No.260/2018

1. Union of India through
Secretary,
M/o Finance
Department of Revenue
North Block, New Delhi.
2. Chairperson,
Central Board of Direct Taxes
Ministry of Finance
Department of Revenue
North Block, New Delhi.

...Review Applicants

(By Advocate: Shri Hanu Bhaskar)

Versus

Sh. Bibhu Dutt Mishra,
S/o Sh. Benudhar Mishra
R/o 177, New Rajdhani Enclave
Vikas Marg, Delhi-110092.

...Review Respondent

(Review Respondent in person)

CP No.671/2018

Sh. Bibhu Dutt Mishra,
S/o Sh. Benudhar Mishra
R/o 177, New Rajdhani Enclave
Vikas Marg, Delhi-110092.

...Applicant

(Applicant in person)

Versus

Union of India through

1. Shri Hasmuk Adhia, Secretary (R),
Ministry of Finance
Department of Revenue
North Block, New Delhi.
2. Sh. Sushil Chandra, Chairperson,
Central Board of Direct Taxes
Ministry of Finance
Department of Revenue
North Block, New Delhi.

...Respondents

(By Advocate: Shri Hanu Bhaskar)

ORDER (ORAL)

By Justice L.Narasimha Reddy, Chairman

RA No.260/2018

OA No.3025/2017 was filed by the applicant herein challenging a communication dated 24.08.2017. He has also sought a declaration to the effect that he stood voluntarily retired from service on expiry of notice period of three months, i.e., on 10.02.2016 and a direction for release of

retirement benefits. The OA was opposed by the respondents by filing counter affidavit. This Tribunal allowed the OA through order dated 10.07.2018. It was observed that the doubt as regards the entitlement of the applicant to seek voluntary retirement before completion of 20 years of service was resolved with the note dated 23.12.2016 issued by DOP&T.

2. In the present RA filed by the respondents in the OA, it is stated that the application dated 06.11.2015 seeking voluntary retirement was dealt with by the Department and through a communication dated 07.01.2016, the applicant was informed that the same cannot be accepted for the reasons mentioned therein. It is stated that though the copy of order dated 07.01.2016 was filed and a detailed reference thereto was made in the counter affidavit, the Tribunal did not take note of the same. Other grounds were also pleaded.

3. We heard Sh. Hanu Bhaskar, learned counsel for review applicants (respondents in OA, and the respondent herein (applicant in OA), who argued the case in person.

4. The applicant sought voluntary retirement through his representation dated 06.11.2015. In the adjudication of the OA, we proceeded on the assumption that no steps were

taken thereon and the doubt, which persisted as to completion of 20 years of qualifying service, stood resolved with the view expressed by the DOP&T in their note dated 23.12.2016.

5. In para 12 of the counter affidavit, a detailed reference is made to the effect that the applicant was informed through a communication dated 07.01.2016 that his request cannot be acceded to. A copy of the said letter was also filed along with the counter affidavit. It reads as under:

“I am directed to say that Shri Bibhu Dutt Mishra, CIR (DR), ITAT, New Delhi has given Voluntary Retirement from Service Notice date 06.11.2015 under Rule 48 A of CCS Pension Rules, 1972 with effect from 10.02.2016.

2. Rule 48 A of the CCS (Pension) Rules, 1972 provide that “at any time after a Government servant has completed twenty years’ qualifying service, he may, by giving notice of not less than three months in writing to the Appointing Authority, retire from service” (copy enclosed). Accordingly, Shri Bibhu Dutt Mishra, CIT (DR), ITAT, New Delhi had not completed 20 year of Qualifying Service as on date of giving notice of VRS i.e 06.11.2015.

3. It is, therefore, requested to advise to Shri Bibhu Dutt Mishra, CIR (DR), ITAT, New Delhi to give a fresh notice of VRS after completing 20 year of Qualifying Service under Rule 48 A of CCS Pension Rules, 1972.

4. A copy of this letter may please be served upon the officer and acknowledgement may please be forwarded to the Board for information.”

6. However, neither the applicant in the OA nor the learned counsel for the respondents therein, who argued the OA brought to our notice the fact that the applicant was informed

through a communication dated 07.01.2016. Though it is pleaded that none of the reasons mentioned therein, can be sustained in law, the same needs to be examined in detail in the OA.

7. We, therefore, allow the RA and recall order dated 10.07.2018 passed in OA No.3025/2017 for fresh adjudication.

8. Pending MA No. 5247/2018 stands disposed of.

CP No.671/2018

CP is filed alleging that the respondents did not comply with the Tribunal's order dated 10.07.2018 passed in OA No.3025/2017. Through a separate order passed in RA No.260/2018, we have recalled the order dated 10.07.2018 passed in the OA. Hence, CP is closed. Notices discharged.

OA No.3025/2017

List on 15.03.2019 along with OA No.1381/2018.

(Pradeep Kumar)
Member (A)

(Justice L.Narasimha Reddy)
Chairman

'sd'