

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1341/2003

(3)

New Delhi, this the 29th day of May, 2003

Hon'ble Sh. Shanker Raju, Member (J)

Hari Krishna,
Ex-Constable BeltNo.:734/W,
R/o H.No.206, Village NAWADA,
Uttam Nagar,
New Delhi-110059.Applicant.

(By Advocate : Ms.Jasvinder Kaur)

V E R S U S

1. Government of NCTD
Through: Commissioner of Police,
PHQ I.P. Estate, BSZ Marg,
New Delhi.
2. Deputy Commissioner of Police,
West District: New Delhi,
C/o PHQ I.P. Estate, BSZ Marg,
New Delhi.Respondents.

O R D E R (ORAL)

Shri Shanker Raju,

Heard Ms. Jasvinder Kaur, learned counsel for the applicant.

2. Applicant, who resigned on his own volition on 21.10.1987, after completion of nearly 15 years of service, placing reliance on decision of this court in Smt. Blinlor Vs. UOI [1992 (2) SLJ 310] contended that resignation from service entails forfeiture past service but one is entitled for pension. She also relies on decision of Apex Court in M/s J.K. Cotton Spinning & Weaving Mills Company Ltd. Vs. State of U.P. (AIR 1990 SC 1808) wherein resignation has been treated as voluntary retirement. On this strength it is contended that the applicant be accorded pensionary benefits including DCRG etc.

3. Applicant has also impugned respondents' order dated 28.4.2003 whereas his request for pension has been turned down. I have carefully considered the contention put forth in the OA.

4. Delhi Police established by a Notification dated 17.12.1982 had adopted Central Civil Services (Pension) Rules, 1972.

5. Applicant, who on his volition without any threat or pressure on his ill health had tendered resignation which was duly accepted. As per Rule 26 of CCS (Pension) Rules, 1972 on resignation from a post or a service unless it is allowed to be withdrawn in public interest, entire past service is forfeited. The only exception to it is when resignation has been tendered to take up with prior permission another appointment under the Government. As the applicant had tendered resignation and was accepted entailing forfeiture of his past service, he is not entitled for pension. However, another request of the applicant to treat the resignation as voluntary retirement cannot be countenanced in view of Rule 48 of the Pension Rules where for a voluntary retirement a Government servant should complete 20 years of qualifying service.

6. In so far as the cas laws on the subject cited by the applicant is concerned, the same is distinguishable as was applied in peculiar facts and circumstances of the cases.

7. In so far as request for compassionate allowance under Rule 41 of the Pension Rules is concerned, the condition precedent for its application is that a Government servant should have been

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dismissed or removed. This would have no application in the present case.

8. In view of the aforesaid, applicant has no valid legal claim admissible under law. Accordingly OA is being dismissed bereft of merit without any order as to costs at the admission stage itself.

S. Raju

(SHANKER RAJU)
MEMBER (J)

/kdr/