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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1378/2003

This the 18th day of September, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

S.D.Narang,
Hindi Translator Gr.-I,
Office of Director General of Meteorology,
Mausam Bhawan, Lodi Road,
New Delhi-3 and
R/O C/O H.No.555/21, Jagdish Colony,
Rohtak-124001. ... Applicant

(In person)

-versus-

1. Deputy Director General of
Meteorology (UI), Office of
Deputy Director General of Meteorology (UI),
Department of India Meteorological Department,
Ministry of Science & Technology,
Govt. of India, I.M.D., Mausam Bhawan,
Lodi Road, New Delhi-3. ... Respondent

(By Shri M.M.Sudan, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has been working as a Hindi Translator Grade-I in the office of Deputy Director General of Meteorology. Through the present OA he has sought quashing of Annexure A-1 dated 17.4.2001 which reads as follows :

"The undersigned is directed to inform Shri Sukh Dev Narang, Hindi Translator Gr.I that vide this office O.M.s No.AM-(Misc)/Vig/VI/2297 dated 31-05-2000 and No. AP-3006/part II dated 18-09-2000 and 13-10-2000, he was asked to report for his duty immediately failing which action as deemed fit may be initiated against him.

2. Shri Narang, Hindi Translator, Gr.I has neither reported for duty yet nor submitted any leave applications alongwith

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supporting documents etc. and continued to remain absent from duty unauthorisedly till date.

3. Shri Narang, Hindi Translator Gr.I is given a last chance to explain within seven days of receipt of this memorandum, why disciplinary action as deemed fit under prescribed Govt. Rules should not be initiated against him for his above act of mis-conduct.

4. Shri Narang, Hindi Translator Gr.I should acknowledge the receipt of this memorandum."

He has also sought direction for payment of salary with interest for the period 4.4.1994 to 6.6.2001 during which period, according to applicant, he had been waiting for his posting orders.

2. Applicant argued the case personally and stated that he submitted his joining report on 4.4.1994 (Annexure A-3) and kept waiting for office order of posting thereafter but respondents despite several representations did not issue the posting orders.

3. On the other hand the learned counsel of respondents took the following objections :

(1) Applicant has not come with clean hands. He had sought voluntary retirement under Rule 48-A of the C.C.S. (Pension) Rules, 1972 vide application dated 23.1.2002. He was relieved of his duties w.e.f. 5.3.2002. His voluntary retirement w.e.f. 5.3.2002 was also upheld vide order dated 4.12.2002 (Annexure R-30) in OA No.1954/2002. Applicant had been facing two disciplinary cases for major

penalty under Rule 14 of the C.C.S. (Conduct) Rules, 1965 at the time when he sought voluntary retirement. On acceptance of his voluntary retirement, these cases were dropped.

(2) Applicant has made a false declaration in this OA that he had not previously filed any application/writ petition/suit regarding the matter in dispute here. He had filed OA No.3022/2002 and OA No.3308/2002. He had also filed criminal case No.889/98 before the Metropolitan Magistrate, New Delhi regarding the same matter which was dismissed on 23.9.2000. Review against the same (RA-10/2001) was dismissed on 3.9.2001 in the Court of Additional District Judge, Delhi.

(3) The present OA is not maintainable as it is hit by principles of res judicata as applicant in the past had raised most of the issues/grounds by filing many suits at various fora, for example, issue regarding non-payment of salary, non-issuance of office order of posting, and definition of duty in terms of FR 9(6)(b).

4. The learned counsel of respondents also contended that the impugned Annexure A-1 is only a show cause notice to applicant giving him last opportunity to explain why disciplinary proceedings be not initiated against him regarding misconduct of non-reporting on duty in response to office memorandum dated 31.5.2000 and 13.10.2000.

5. By the material on record, respondents have established that applicant had sought voluntary retirement under Rule 48-A of C.C.S. (Pension) Rules vide application dated 23.1.2002 which was accepted and challenge against that in OA No.1954/2002 had been rejected vide order dated 4.12.2002 (Annexure R-30). Applicant had also filed OA Nos.3022/2002 and 3308/2002 on similar reliefs. These contentions of respondents have not been rebutted by applicant. This application is certainly hit by principles of res judicata and also that he had suppressed material information, as alleged by respondents. Applicant is assailing Annexure A-1 which is merely a show cause notice requiring him to explain, by way of last chance, why disciplinary proceedings should not be initiated against him for the misconduct of non-compliance of O.M. dated 31.5.2000 and 13.10.2000. While the disciplinary enquiries against applicant have been dropped, Annexure A-1 which is merely a show cause notice has been rendered non est and the OA has become infructuous.

6. For the reasons discussed above, this OA is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V. K. Majotra)
Member (A)

/as/