

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1997 of 2003

New Delhi, this the 6th day of May, 2004

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)
HON'BLE MR.S.K. NAIK, MEMBER (A)

R.K. Shukla
S/o Late Shri B.D. Shukla
R/o BSNL Staff Quarters,
No.14/1, Sector 39, NOIDA,
District Gautam Budh Nagar (UP). . .Applicant

By Advocate: None.

Versus

1. Chief General Manager, Telecom,
U.P. West, Telecom Circle,
Dehradun, Windless Complex,
Rajpur Road Dehradun, Uttarakhand.
2. The Chief General Manager,
Telecom, H.P. Circle,
Shimla-171009 H.P.
3. The CMD (Chief Managing Director)
BSNL Corporate House,
Bara Kambha Road,
New Delhi-110 001.
4. The Union of India through the
Secretary, DOT, Department of Information,
Technology and Communication,
Sanchar Bhawan,
20 Ashoka Road,
New Delhi-110 001. . .Respondents

(By Advocate: Shri K.R. Sachdeva)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Jud1)

This OA has been filed under Section 19 of the
AT Act against an alleged illegal retirement order dated
10.12.2002 issued from the office of GMTD, GB Nagar
permitting the applicant to retire. The applicant
further alleges that he was relieved of his duty on
10.12.2002 but worked then as usual. The applicant had
never applied for retirement but the language would show
as if the applicant had applied for retirement.



2. It is further stated that pending consent in the retirement order and taken work even after the age of superannuation without payment of salary are violative of applicant's fundamental rights under Article 14, 16, 19 and 21 as such the respondents have arbitrarily deprived the applicant of benefits of Class-I officer, by cutting short, by a few days, of his tenure as ad hoc Class-I officer for which even after notice dated 22/22.2.2003 respondents did not grant and refuse the same vide their order dated 10/21.4.2003. The applicant also prays that grant of promotion on ad hoc basis with artificial breaks, while the vacancies continued since order of 'permitted retirement' was passed is also violative of applicant's fundamental rights.

3. Facts, as alleged, by the applicant in brief are that the applicant had joined the Telecom Department in the year 1962 as a Mechanic and in due course, by his proficiency, he has risen to the post of Group 'A' officer in all India cadre.

4. It is further stated that he was started to be promoted in Group 'A' since 2.7.1978 with artificial breaks or deliberate vaccum created by the respondents, for not letting a promoted officer of Group 'B', claim benefits of long and continuing promotion, though vacancies in Group 'A' were subsisting on all dates since till 2003.

km.

5. The applicant was then transferred to H.P. Circle and then he was again brought to Dehradun and as such he prays for quashing of an order dated 10.12.2002 and also seeks a declaration to the effect that he is a Group 'A' officer since 1999 and claims arrears also.

6. The OA is being contested by the respondents. The respondents in their reply pleaded that applicant had retired on 30.11.2002 vide DOT order dated 29.11.2002. On the eve of retirement he was given remuneration packet with shawl & momento etc. as per GMTD, NOIDA's sanction dated 29.11.2002. The applicant never worked after 30.11.2002 in BSNL and he was correctly permitted to retire from Government service on 30.11.2002 on attaining the age of superannuation and not voluntarily as mentioned by him.

7. It is also submitted that as per pension rule the date of retirement is after-noon of the last day of the month in which officer attained the age of 60 years and as per service book record duly signed by the applicant and verified by the competent authority he was correctly retired on 30.11.2002 on attaining the age of 60 years.

8. The respondents had also pleaded that as per FR 56 no specific orders are necessary for retirement on due date as per Government of India decision, MHA dated 10.12.1965.

JKW

9. Thus it is stated that the applicant has been rightly retired w.e.f. 30.11.2002 and he has no case to seek a declaration that he had continued in service till 10.12.2002.

10. We have heard Shri K.R. Sachdeva, learned counsel for the respondents. Since no one has appeared for the applicant, so we proceeded to hear the case under Rule 15 of the CAT (Procedure) Rules.

11. The learned counsel for the respondents have invited our attention to Annexure-II which is at page 9 of the counter-affidavit which has been issued on 29.11.2002 which clearly says that the applicant, Shri R.K. Shukla is permitted to retire from Government service w.e.f. 30.11.2002 though the applicant in his OA submitted that the language used shows that the applicant had sought voluntary retirement that is why they had used the words 'permitted to retire'. But in our view this contention of the applicant has no merits because the department had passed an order permitting an employee to retire because before the retirement the department has to ensure that no vigilance/disciplinary case is pending or contemplated against the officer and if any such case is pending, then action is to be taken in accordance with the rules pertaining to such like matters.

12. The counsel for the respondents has also referred to another document Annexure-A-4 dated 29.11.2002 which shows that the office of the GMTD, G.B. Nagar had sanctioned a sum of Rs.1752/- on account of gift and remuneration packet awarded at the time of his

k

retirement. This was also sanctioned on 29.11.2002 as the applicant was to retire on 30.11.2002. The counsel for the respondents has invited our attention to documents regarding commutation of pension without medical examination which shows that the date of retirement on superannuation is 30.11.2002. The Government decision on retirement also shows that even after the orders are issued then a Government servant is to retire when he attains the age of retirement and on the last date of the month in which year he attains the age of superannuation. Thus we find that the applicant has been rightly retired on 30.11.2002.

13. The claim of the applicant that he was entitled to Group 'A' posts the counsel for the respondent in this regard has again submitted his joining report at GMTD, G.B. Nagar, NOIDA vide Annexure A-10 and it shows his designation as SDE and this joining report was effective w.e.f. 13.5.2002 meaning thereby that by 13.5.2002 he was working on Group 'B' post and not on a Group 'A' post so applicant cannot claim any remuneration for Group 'A' post so none of the points raised by the applicant have any merits so the OA be dismissed.

14. In view of the above, OA has no merits and the same is dismissed. No costs.

S.K. NAIK
(S.K. NAIK)
MEMBER (A)

Kuldip Singh
(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh