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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2891/2003

New Delhi, this the 28th day of January, 2005

Hon'ble Shri S.K. Naik, Member(A)

1. Jagdish Chander
Balfour Road, Southall, Middx UB2 5BX, UK
2. Satya Pal Kapur
23 Hillside Road, Southall, Middx UB1 2PD, UK
3. Satish Chander Sharma
100 Derley Road, southall, Middx UB2 5EN, UK .. Applicants

(Dr. D.C. Vohra, Advocate)

versus

Union of India, through

1. Foreign Secretary
Ministry of External Affairs
South Block, New Delhi
2. Head of Chancery
High Commission of India
C/o Ministry of External Affairs
South Block, New Delhi .. Respondents

(Shri A.K. Bhardwaj, Advocate)

ORDER(oral)

Applicants, three in number, who claim that while working in the High Commission of India at London they served three months' notice to the respondents seeking voluntary retirement on 20.4.78, 15.4.78 and 4.1.78 respectively, have chosen to approach this Tribunal through the present OA, seeking reliefs to the effect that they should be treated as 'stood retired' under voluntary retirement scheme and respondents be directed to give them all retiral benefits and the balance amount standing at their credit in GPF account.

2. Learned counsel for the applicants has contended that the applicants while posted with the Indian High Commission at London had proceeded on earned leave on completion of their tenure during the year 1978. Government of India, Department of Personnel & AR vide Office Memorandum dated 26.8.77 had promoted a scheme of voluntary retirement for Central Government servants who have completed 20 years of service. All the three applicants had expressed their desire to seek voluntary retirement under the Scheme as they had put in more than 20 years of service. They informed the respondents that three months notice period may be allowed to run concurrently with the earned leave at their credit. It is the claim of the applicants that they never heard anything to the contrary from the respondents

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and, therefore, they presumed that they stood voluntarily retired from service and have claimed that respondents should give them retirement benefits and refund the balance amount in their GPF account. Learned counsel further contends that contrary to this legal position, respondents have declared them as "Deserters" which is not a recognized punishment in civil service. He has further contended that w.e.f. 4.1.78, 15.4.78 and 20.3.78, applicants No.1, 2 and 3 respectively stood retired from their service with Respondent No.1 by operation of law and they were no longer entitled to or obliged to join headquarters at New Delhi and, having become pensioners in terms of the Scheme of voluntary retirement, they were entitled to pensionary benefits.

3. Respondents have contested the OA. Counsel for the respondents has raised a preliminary objection on the maintainability of the OA itself and has submitted that as per their own claim, though not admitted by the respondents, the applicants stood voluntarily retired during the year 1978. However, they remained silent with regard to any benefit which was entitled to them for the last more than 25 years. No reason has been given as to why the applicants did not agitate the matter earlier. The submission to the contrary is that the applicants, on completion of their tenure at London, were asked to report to the Ministry of External Affairs at New Delhi. But rather than doing so, the applicants disappeared in UK without intimating their place of residence etc. It amounted to abusing their official position and a serious view thereof had to be taken in the national interest. They were thus proceeded against departmentally and after following the due procedure, they were dismissed from service. A dismissed employee has absolutely no ground to claim any pensionary benefits, the counsel contends, and submitted that the OA deserves nothing but dismissal.

4. Respondents have also denied that applicant No.1 (Jagdish Chander) ever sought voluntary retirement during his service term, while applicant No.3 (S.C.Sharma) had applied for voluntary retirement vide his letter dated 27.9.77. He had been informed that his request could not be acceded to and the decision was conveyed to him vide letter dated 15.10.1977. Deserting duty while being posted in a Foreign Mission is a serious misconduct and therefore they had been dismissed from service. The fact that the applicants kept mum over the matter for decades speaks for itself that they had some ulterior motive not to return to New Delhi for duty and indeed after a long lapse they are now making an attempt to seek the benefit of pension to which they are not entitled.

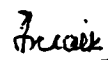
5. On the question of balance in their GPF account, learned counsel has contended that the same could not be disbursed since the applicants did not give their place of residence for obvious reasons. However, respondents would release the balance in the credit of the applicants in their GPF account if correct addresses of the applicants are furnished to them

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6. I have considered the contentions raised by the learned counsel for the parties and also have perused the records of the case.

7. As has been rightly pointed out by the learned counsel for the respondents, the case is not that of grant of retirement benefits but that of dismissal from service which were ordered by the respondents way back in 1978. In the background of the contentions raised by the learned counsel for the respondents that the applicants on completion of their tenure in the Foreign Mission had to return to their hqrs. in New Delhi, their attempt to avail leave and thereafter, rather than returning to New Delhi, disappearing in UK without leaving the address of their residence and then seeking voluntary retirement, again without indicating their place of residence, is indicative of the conduct of the applicants. When due process to issue them notice for disciplinary proceedings had been initiated and ultimately they were dismissed from service, they cannot now turn around and say that they were not aware of such proceedings. In any case, once they stood dismissed from service they could have appealed against the order of dismissal. The present application in the guise of retirement benefits, in my view, is not maintainable. The OA has no merit and is accordingly dismissed.

However, with regard to the offer of the respondents that balance in the GPF of the applicants can be released provided correct addresses of the applicants are given, on a query, learned counsel for the applicants has confirmed that the applicants may be addressed at the address given in the OA indicating the balance in their GPF account and on confirmation from the applicants the amount at their credit can be remitted. Accordingly, respondents would write to the applicants at the address given in the OA asking them to confirm and whether the said amount can be sent to them through bank draft/cheque and thereafter take necessary action in this regard. No costs.


 (S.K. Naik)
 Member(A)

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