

(2020) 07 CAT CK 0035
In the Central Administrative Tribunal
Case No : Original Application No. 936 Of 2020

Mahinder Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 27-07-2020

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Central Civil Services (Pension) Rules, 1972 — Rule 48(1)(a)
Central Civil Services Classification, Control & Appeal) Rules, 1965 — Rule 16

Citation : (2020) 07 CAT CK 0035

Hon'ble Judges : R.N. Singh, Member (J); Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Yogesh Sharma, Dr. Ch. Shamsuddin Khan

Final Decision : Disposed Of

Judgement

R.N. Singh, Member (J)

1. The present application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant seeking the following reliefs :-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action the respondents not treating the applicant Vol. retirement w.e.f. 17.04.2020 is illegal, unjust, and against the rules and consequently pass an order directing the respondents to treat the applicant Vol. retired as per his notice dated 17.04.2020 on completion of 90 days and consequently release all the retirement benefits including gratuity amount of the applicant immediately with interest @18% PA from due date till payment.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

2. Learned counsel for the applicant submits that the applicant was initially appointed under the respondents as Postal Assistant with effect from 16.11.1982 and subsequently he was promoted to the post of Sub-Post Master. That during

such employment of the respondents, the applicant had started suffering from Eye Disease in the month of January, 2020 and he was advised by the Attending Doctor for rest. Keeping in view the same, the applicant submitted his notice for voluntary retirement on 17.01.2020 (Annexure A/2) on completion of his 36 years of service under Rule 48 (1) (a) of CCS (Pension) Rules, 1972.

3. Mr. Sharma urges that though the applicant has mentioned notice period as one month in the said application, however, the statutory notice period of three months expired on 17.04.2020 and till 17.04.2020 the applicant did not get any order of acceptance or refusal of his request for voluntary retirement from the respondents. He further adds that during such time, the applicant was not placed under suspension nor any major penalty proceeding was initiated against the applicant. Therefore, the applicant is entitled for being deemed to have retired with effect from 17.04.2020. However, during such period, the respondent no. 2 issued memorandum dated 05.02.2020 under Rules 16 of CCS (CCA) Rules and the applicant submitted his reply to such memorandum dated 17.02.2020. The respondents have passed the final order of penalty on 20.03.2020 and the applicant in response thereto the penalty order, has deposited a sum of Rs.50,000/- to the respondents on 18.05.2020. However, till date the respondents have not passed any orders on the request of the applicant seeking voluntary retirement from the service of the respondents.

4. Issue notice. Dr. Ch. Shamsuddin Khan, learned counsel appearing for the respondents accepts notice.

5. At this stage Mr. Sharma learned counsel for the applicant submits that the applicant shall be satisfied if the present O.A is disposed of at this very stage with direction to the respondents to consider the applicant's aforesaid notice seeking voluntary retirement from the services of the respondents and to pass an appropriate order keeping in view all the relevant rules on the subject in a time bound manner.

6. We have heard the learned counsels for the parties. In the facts and circumstances, we are of the considered view that if such request of the applicant is accepted, no prejudice will be caused to the respondents.

7. In view of the aforesaid facts and circumstances the present O.A is disposed of with a direction to the respondents to consider the applicant's notice dated 17.01.2020 (Annexure A/2) vide which he has sought voluntary retirement from the services of the respondents keeping in view the relevant rules and instructions on the subject and pass an appropriate order as expeditiously as possible and in any case within 6 weeks of receipt of a copy of this order.

8. We make it clear that while passing the present order, we have not expressed any opinion on the merit of the claim of the applicant.

9. The O.A is disposed of in aforesaid terms. No order as to costs.