
(1994) 02 AHC CK 0015

In the Allahabad High Court

Case No : CiVil Misc. Writ Petition No. 27618 of 1992

Taj Bahadur Singh

APPELLANT

Vs

Bharat Pump and Compressors Limited and Others

RESPONDENT

Date of Decision : 07-02-1994

Acts Referred:

Citation : (1994) 1 AWC 555 : (1994) 2 UPLBEC 723

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : S.N. Singh and R.N. Singh, for the Appellant; P.K. Mukherjee, for the Respondent

Judgement

M. Katja, J.—This writ petition has been filed against the impugned orders dated 16-5-1992 and 6-6-1992 (Annexures 5 and 8 to the writ petition).

2. I have heard Sri R.N. Singh, learned counsel for the Petitioner and Shri P.K. Mukharjee learned counsel for the Respondents.

3. The Petitioner was an employee of Bharat Pumps & Compressors, Naini, Allahabad which is a Government of India Undertaking. The Petitioner was appointed on 31-5-1974 on a permanent basis and he stated in para 6 of the writ petition that since the time of his appointment he has been discharging his duties sincerely and. ?o the entire satisfaction of his superiors and he has not been awarded any adverse entry but rather he was given special increment for his good performance. He was regularly promoted and at the relevant time he was working as Librarian Grade-I.

4. The Company circulated a Voluntary Retirement Scheme, true copy of which is Annexure 1 to the writ petition. The Petitioner who had put in 18 years service, filed an application with a . conditional offer of retirement dated 23-3-1993, true copy of which is Annexure 2 to the writ petition. This application was filed alongwith a form which is annexed to the counter affidavit as Annexure C.A. 1 on the same date i.e. on 23-3-1992. A perusal of Annexure 2 of the writ petition

shows that Petitioner has stated that he should be relieved from 30-6-1992. The Senior personnel Officer of the Company informed the Petitioner vide Annexure 3 to the writ petition dated 13-4-1992 that the petitioners' request to retire from 30-6-1992 cannot be acceded to, and he will be relieved from 31-5-1992 under the Voluntary Retirement Scheme. On receiving this letter dated 13-4-1992, the Petitioner wrote a letter to the Company withdrawing his offer of voluntary retirement vide letter dated 11-5-1992, true copy of which is Annexure 4 to the writ petition. However, the Deputy Personnel Manager rejected this withdrawal application by letter dated 16-5-1992, true copy of which is Annexure 5 to the writ petition. In this letter it was stated that the Petitioner will be relieved from his duties w.e.f. 31-5-1992. The Petitioner then moved an application to the Assistant General Manager through proper channel for cancelling the order of the Deputy Personnel Manager dated 16-5-1992 Annexure 5 to the writ petition. On the application the Managing Director of the Company directed the Assistant General Manager not to consider the petitioner's application for his voluntary retirement dated 21-5-1992. A true copy of the application dated 17-5-1992 is Annexure 7 to the writ petition. However it is alleged that subsequently the Managing Director approved the voluntary retirement of the Petitioner. In para 15 of the writ petition it is stated that the Deputy Personnel Manager illegally and arbitrarily issued an order dated 6-6-1992 relieving the Petitioner w.e.f. 31-5-1992. True copy of the order of the Deputy Personnel Manager dated 6-6-1992 is Annexure 8 to the writ petition. Aggrieved, this writ petition has been filed in this Court.

5. A counter affidavit has been filed in which it is stated in para 8 that as per the terms and conditions of the Voluntary Retirement Scheme, the retirement become effective from the last date of the month in which the decision is communicated. In para 11 of the counter affidavit it is alleged that since the Voluntary Retirement was valid upto 31-5-1992, hence the Petitioner was made to retire from that date. It is alleged in para 12 of the counter affidavit that the petitioner's application was not conditional and there was only a separate application requesting that he should be relieved from 30-6-1992.

6. Learned counsel for the Petitioner has urged that since his offer was conditional it should either have been accepted as a whole or rejected as a whole, and it was not open to the Respondent No. 1 to accept it partly. On the other hand, learned counsel for the Respondents urged that in the form which is Annexure C.A. 1 to the counter affidavit there is no mention that the petitioner's offer is conditional and that he should be retired on 30-6-1992. It is no doubt correct that in the form which is Annexure C.A. 1 there is no mention that the Petitioner should be retired from 30-6-1992, but we have to read the said form alongwith the letter of the same day i.e. on 23-3-1992 (Annexure C.A. 2 to the counter affidavit). This letter which is Annexure 2 to the writ petition makes it clear that the Petitioner sought to be relieved from 30-6-1992. In my opinion the word "relieved" carries no other meaning other (sic) "retired" since this letter was written in connection with the Voluntary Retirement Scheme. Hence reading

the said letter which is Annexure 2 to the writ petition alongwith the Form whose copy is C.A. 1 to the counter affidavit the correct inference "Which has to be drawn u that the petitioner"s offer was conditional, i.e. he had offered to retire from 30-6-1992. Hence he should have either been retired in terms of his offer or else his application for retirement should have been rejected as a whole. However, the Manager wrote a letter to the Petitioner and retired the Petitioner on 31-5-1992. This was an arbitrary act on the part of the Management and hence it cannot be sustained. Since the petitioner"s offer was to retire from 30-6-1992, it was open to him to withdraw the resignation/retirement before 30-6-1992. The action of the Respondents in retiring the Petitioner has to be held arbitrary and illegal in view of the decision of the Supreme Court in Union of India (UOI) and Others Vs. Gopal Chandra Misra and Others, .

7. In view of the above the impugned orders dated 16-5-1992 and 6-6-1992 Annexures 5 and 8 to the writ petition are hereby quashed and the Respondents are directed to reinstate the Petitioner within one month of production of a certified copy of this judgement before the Respondent No. I and pay his monthly salary regularly. However, in the circumstances of the case and looking to the fact that the Petitioner has not worked for this period I direct that the Petitioner will be paid 75% of his back wages and allowances for the period of his employment.

8. With these observations, the writ petition is finally disposed of.