
(2019) 08 CAT CK 0047

In the Central Administrative Tribunal

Case No : Original Application No. 1539 Of 2017

VB Mehta

APPELLANT

Vs

AIIMS And Anr

RESPONDENT

Date of Decision : 22-08-2019

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 26

Citation : (2019) 08 CAT CK 0047

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Akansha Srivastava, Rabin Majumder, KP Gautam, Rajnish Prasad

Final Decision : Dismissed

Judgement

1. The applicant has filed the present OA, seeking the following reliefs:-

"I Direct the authorities/departments disburse the retirement applicant. Respondent to forthwith benefits to the

II. Quash the balance due of Rs.5730/- against the scooter loan now raised by the Respondent Hospital.

III. Call for records.

IV. Any other relief which the Hon"ble Tribunal deem fit and proper may also be granted to the original applicant with the costs of litigation."

2. It is the case are that the applicant had joined the respondent no.1 on 14.06.1963 as Lab Assistant and got appointment as Lab Technician in a World Health Organization (WHO), Research and Training Centre (RTC) in Human Reproduction w.e.f. 23.04.1973 on temporary basis. The applicant alleged that after having rendered about 10 years service in the Institute, he was reverted by the respondents vide Memo No. 6-3/82-WHO-CCR dated 09.02.1983 to his basic post of Laboratory Assistant, without any justifying reasons, whereas his juniors who had joined as Nursing Orderlies, Lab Attendants and Animal Attendants,

were promoted as Lab Technician. Being aggrieved with this inaction of the respondents, the applicant was forced to tender resignation on 09.03.1983 which was accepted by the then AO vide letter No.F.7-90/63-Estt.II dated 16.07.1984. The applicant has also pleaded that he ran from pillar to post to receive the legal retiral benefit but every exercise was made futile due to the illegal, arbitrary and discriminatory attitude of the respondent Hospital. Finding no proper response from the respondents, the applicant has filed the present OA seeking retirement benefits from the respondents Hospital for the period he worked as Lab Assistant and Lab Technician in the Insitute.

3. The respondents, while contesting the OA, have filed their reply. They have contended that the applicant had already received GPF accumulation amount through cheque and as far as pension and gratuity is concerned, the applicant had made himself disentitled from getting the retirements benefits by tendering his resignation voluntarily as per Rule 26 of Central Civil Services (Pension) Rules, 1972. They have also contended that acting upon the application dated 24.07.2006 filed under RTI Act, 2005 by the applicant, they issued Memorandum No. F.7-90/63-Estt.II dated 10.10.2006 whereby it was notified that the request of the applicant was considered from time to time and it was found that there were no ground for consideration of his case and it was also notified that the decision in the said mater was also conveyed to the applicant. The respondents have submitted that they have also issued Memorandum No.F7-90/63 Estt.II dated 05.01.2007 in response to the letter dated 13.12.2006 filed by the applicant under RTI (Annexure R1/6). They have also contended that the respondents, vide Memorandum No.F.7-90/63-I Estt. datedd 15.06.2007 (Annexure R1/8) revealed that 22 earned leave is due to the applicant and the this information was also conveyed to the Health Ministry in the letter dated 24.06.2010 the applicant's representations were duly considered by them vide their Memorandums dated 09.02.1985 and 23.10.1991. Hence, they have prayed for dismissal of the OA.

4. After hearing both the sides and perusing the pleadings on record, including the order of appointment of the applicant to the post of Lab Technician dated 23.4.1973, it is clear that appointment of the applicant as Lab Technician was purely temporary in nature and the said appointment may be terminated at any time by a month"s notice given by either side viz. the appointee or the appointing authority without assigning any reason or at the end of the scheme for any reason whatsoever. Hence, action of the respondents in not granting the benefits of this temporary appointment is justifiable as it is not a regular appointment.

5. It is also noted that applicant had tendered resignation vide letter dated 09.03.1983, the relevant para 10 of which reads as under:-

"10. That I shall be obliged to reconsider my reversion orders and in case the same is not possible may resignation may please be accepted after completion of three months of this letter being permanent employee of the Institute, three

months notice is required as per rules. This letter may be treated as three month"s notice period ending on 9.6.83."

From the above, it is clear that the resignation letter dated 09.03.1983 is not a technical in nature and hence, the respondents have rightly forfeited the services of the applicant as per Rule 26 of Central Civil Services (Pension) Rules, 1972 which reads as under:-

"Forfeiture of service on resignation

(i) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.

It is also noted that the resignation tendered by the applicant was duly accepted by the competent authority vide letter No.F.7-90/63-Estt.II dated 16.07.1984 and hence, the claims of the applicant regarding pension and other terminal benefits are not permissible as per Rule 26 of CCS(Pension) Rules, 1972. The respondents have also been able to show from their CA that they have always responded the representations/applications filed under RTI as shown in R1/6 and R1/8 of their reply. Hence, in view of the same, we do not find any illegality in the action taken by the respondents in this matter. Accordingly, the OA is dismissed. No order as to costs.