

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

10.

O. A. No. 597 of 2010

Nb Ris. Surjit Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: M/s. K. Ramesh & R. Archana, Advocates.

For respondents: Sh. Anil Gautam, Advocate

ORDER
18.10.2011

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
18.10.2011

1. The petitioner in this petition has prayed that the respondents be directed to set aside Armoured Corps Records Letter dated 12.6.2010 in view of his application for withdrawal of premature retirement on compassionate grounds, in the light of the judgment in **Balram Gupta v. Union of India and another** (AIR 1987 SC 2354).

2. The petitioner was enrolled in the Armoured Corps on 30.12.1989 and over the passage of time, he became Naib Risaldar on 20.2.2010. He had some family problem at his house and that persuaded him to send a letter for voluntary discharge from service on 12.6.2010, which was recommended by the Squadron Commander and same was approved by his CO i.e. Commandant, 20 Lancers. On the basis of this recommendation, the Record Office issued Release Order No. 6 on 12.6.2010 and relieved the petitioner. However, he was to be effectively relieved from 30.11.2010 because certain discharge formalities were required to be completed.

The petitioner thereafter realized that he should not have sought voluntary retirement and he tried to withdraw the application for voluntary discharge by sending a communication dated 7.9.2010 to the Senior Record Officer to permit him to withdraw the previous application for premature retirement. The same was not accepted. Hence the petitioner filed the present petition.

3. Reply had been filed by the respondents who have taken the stand that since the communication sent by him was complete and it was accepted by the respondents and the Record Officer which passed an order relieving the petitioner on 12.6.2010 to be effectively discharged on 30.11.2010. Therefore, the discharge was complete and it cannot be revoked. They also pointed out that they have not received any so called communication for revocation moved by the petitioner on 7.9.2010.

4. We have heard learned counsel for the parties and perused the records.

5. Learned counsel for the petitioner has submitted that the petitioner was discharged on 30.11.2010 and he moved the application withdrawing the previous application for premature retirement on 7.9.2010. In this connection, learned counsel for the petitioner brought to our notice the judgment of the apex Court in **Balram Gupta v. Union of India and another** (AIR 1987 SC 2354). In this case, a three months' notice was given by an employee for the purpose of voluntary retirement. He subsequently i.e. before the expiry of three months, withdrew the application for voluntary retirement. But still the authorities ordered his discharge from service. In that context, Their Lordships held that the petitioner had sought retirement after giving three months notice and before the expiry of three months he revoked the same; therefore, it was held that before expiry of notice incumbent has revoked his notice of retirement. Therefore, it was not effective. Hence the order of retirement

was set aside. In the present case, final order was passed on 12.6.2010 by the Record Office and communicated the same to the petitioner. The petitioner on 7.9.2010, after receiving the communication of the Records Office, withdrew his application for voluntary retirement. The communication given by the petitioner had become effective and the respondents in turn had acted upon it. Therefore, it is complete in all respects. In Army, the discharge formalities take a little time because administrative clearance is to be obtained from various units. But the order became effective from 12.6.2010 when the authorities acceded to the request of the petitioner for voluntary discharge. In this view, no interference is required in the matter.

6. The petition is dismissed, with no order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
October 18, 2011
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