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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11882/2018

SECRETARY, DEPARTMENT OF ANIMAL HUSBANDRY &
DAIRYING Petitioner

Through: Mr. Arun Bhardwaj, Adv.

versus

DR. CHANDRA SHEKHAR SAHUKAR Respondent
Through

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

02.11.2018

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The petitioner has preferred the present writ petition to assail the order dated 25.04.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A No. 2540/2017. By the impugned order the Tribunal has allowed the said Original Application of the respondent and held that the respondent applicant had withdrawn his application for seeking voluntary retirement before its acceptance and before it came into effect. Consequently, the subsequent acceptance of resignation by the petitioner has been quashed and it has been held that he shall continue in service till the superannuation ie. 31.05.2018. He has been granted consequential reliefs for arrears of salary minus the pensionary benefits and the pension received by him during the period in question.

We are dismayed that despite repeated pronouncements of the Supreme Court on the issue and the clear admitted factual position, the petitioner continues to adopt an unsustainable and illegal stand in case after case. The respondent submitted his notice to seek voluntary retirement on 14.10.2016, with effect from 15.01.2017. On 05.01.2017 i.e. prior to the date when his voluntary retirement was to come into effect, he withdrew the same. Despite the said withdrawal, the petitioner sought to accept the already withdrawn letter seeking voluntary retirement by issuing a communication on 25.01.2017 whereby the petitioner sought to accept the same with effect from the same date. Admittedly, the respondent withdrew the application to seek voluntary retirement before it became effective and the respondent continued in service even after 15.01.2017.

Pertinently, the petitioner earlier issued an acceptance of voluntary retirement on 06.01.2017 i.e. after the same had been withdrawn on 05.01.2017 and stated that the respondent shall stand relieved w.e.f 25.01.2017.

In any event, neither the acceptance of 06.01.2017, nor the acceptance 25.01.2017 of the respondent's already withdrawn voluntary retirement was legal since the respondent had withdrawn the same.

The issue sought to be raised by the petitioner premised on the language used in Rule 48 (A) of the CCS (Pension) Rules, 1972- which provides that the withdrawal of the voluntary retirement letter would need approval, is squarely covered by the decision of the Supreme Court in ***Balram Gupta v. U.O.I*** 1987 (Supp) SCC 228.

The legal position is well settled by a series of judgments of the Supreme Court, including in ***Shambhu Murari Sinha v. Project &***

***Development India Ltd. & Ors.*, 2002 3 SCC 437.**

In these circumstances, we find absolutely no merit in this petition. The same is, accordingly, dismissed. The petitioner is subjected to costs of Rs. 10,000/- for wasting the time of this Court by filing this frivolous petition. The costs shall be paid to the Delhi Legal Services Authority within four weeks.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 02, 2018

N.Khanna