

## SC13419

### Important Laws Covered in the Case

- **Rule 16(2) and 16(2A) of the All India Services (Death-cum-Retirement) Rules, 1958:**
- **Section 14 and 19 of Administrative Tribunals Act, 1985:**

### Background of the Case

R.K. Sharma, an IPS officer from the 1967 batch, was embroiled in a service dispute impacting the seniority of his colleague, P. Lal. Sharma served in the Research and Analysis Wing (RAW) from 1982 to 1990. After being repatriated to the Punjab cadre in October 1990, he failed to report for duty for nearly a year.

Sharma applied for voluntary retirement on **June 30, 1992**, but later withdrew the application. On **May 5, 1993**, he applied for retirement again, depositing ₹30,870 in lieu of three months' notice. Without waiting for approval, Sharma left for England and subsequently took up employment with **M/s. California Designs and Constructions Inc.**, a foreign firm, without government permission.

Initially, the **Government of India (GOI)** rejected his retirement request, citing procedural lapses. However, after representations by the Punjab Government, the GOI retrospectively accepted his retirement on **March 2, 1995**, effective **May 1993**. Sharma later sought to withdraw his retirement application, but the GOI rejected this withdrawal.

Unexpectedly, in 1997, the GOI allowed Sharma to withdraw his voluntary retirement application, reinstating him in service. This reinstatement affected the seniority of P. Lal, who challenged it before the Central Administrative Tribunal (CAT).

### Facts of the Case

- **Unauthorized Absence:** Sharma was absent from duty from October 1990 and later took unauthorized leave to travel to England.
- **Voluntary Retirement Application:** Filed on May 5, 1993, with an immediate effect request, accompanied by a deposit in lieu of notice.
- **Foreign Employment:** Sharma took up a directorial position with M/s. California Designs without informing or seeking approval from the GOI.
- **Reinstatement:** Despite his misconduct, Sharma was allowed to withdraw his retirement application in 1997, significantly affecting the seniority of officers like P. Lal.
- **Tribunal Ruling:** The CAT quashed Sharma's reinstatement, deeming it improper and in violation of service rules.

### Questions in the Matter

1. Could Sharma withdraw his voluntary retirement application after it had been accepted but not communicated?
2. Did his unauthorized absence and foreign employment sever the master-servant relationship?

3. Was P. Lal, the appellant, entitled to challenge Sharma's reinstatement on grounds of seniority?
4. Was formal communication or Gazette notification necessary for retirement acceptance under Rule 16(2A)?
5. Could Sharma claim service benefits after abandoning duty and taking up foreign employment?

### **Judgments Stated**

The Supreme Court ruled in favor of P. Lal and upheld the CAT's decision to quash Sharma's reinstatement. Key findings were:

- **Termination of Master-Servant Relationship:** The acceptance of Sharma's voluntary retirement on **March 2, 1995**, severed the relationship, effective retrospectively from **May 1993**. Communication of acceptance was deemed unnecessary.
- **Invalid Withdrawal:** Sharma's attempt to withdraw his retirement on **April 18, 1995**, was invalid since the relationship had already been severed.
- **Foreign Employment as Misconduct:** Sharma's employment with M/s. California Designs violated service rules, reinforcing the severance of his service relationship.
- **Criticism of GOI Actions:** The Court criticized the GOI's inconsistent decisions and leniency in reinstating Sharma, despite his misconduct.
- **Final Ruling:** Sharma ceased to be in service as of **May 1993**, was ineligible for seniority claims, and was not entitled to service benefits post-1993.

### **Reference Cases Used in the Judgment**

- **Shambhu Murari Sinha v. Project & Development India (2000) 5 SCC 621:**  
Established that voluntary retirement applications could be withdrawn until the retirement became effective.
- **Bank of India v. O.P. Swarnakar (2002) 9 SCALE 519:**  
Reaffirmed the right to withdraw voluntary retirement before its effective date.
- **Mohd. Shujat Ali v. Union of India (1975) 3 SCC 76:**  
Distinguished between the right to promotion and a mere chance to promotion.
- **Thammanna v. K. Veera Reddy (1980) 4 SCC 62:**  
Defined "person aggrieved" for locus standi, emphasizing the need for a legal grievance.
- **Bar Council of Maharashtra v. M.V. Dabholkar (1975) 2 SCC 702:**  
Clarified that only those directly affected by an administrative action could challenge it.