

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(8)

OA NO. 663/2001

New Delhi, this the 28th day of September, 2001

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Ajay Ram S/o Sh. Huray Singh,
R/o T/46-B, Railway Colony,
Bareilly. Applicant
(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India, the General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Station Supdt./Station Manager,
Northern Railway Station, Bareilly.
3. The Divisional Railway Manager,
Northern Railway,
Moradabad Division,
Moradabad. Respondents

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA under Section 19 of the AT Act seeking a relief that this Court may direct the respondents to treat the applicant voluntarily retired from service w.e.f. 7.1.2001 and release the retiral benefits alongwith interest.

2. The facts in brief as alleged by the applicant are that the applicant who is working as a Guard under the respondents submitted a request for voluntary retirement on 10.10.2000 giving 3 months notice. The period of said 3 months notice had expired on 7.1.2001 but no further order has been passed in retiring the applicant. Counsel for the applicant has alleged that the respondents cannot compel the applicant to remain in service after attaining a particular age and after having rendered the requisite service as required for seeking voluntary retirement.



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3. The respondents in their reply have contested the OA. The respondents submitted that though the applicant had filed an OA challenging the reversion order passed by the respondents, the said OA was allowed vide judgment dated 13.12.2000, however, the respondents are given liberty to proceed after issue of show cause notice. Respondents further says that action regarding whether to give show cause notice for reversion or not is still to be sorted out. In this background the acceptance of the voluntary retirement is pended. This order has been passed on 5.1.2001. However, the applicant says that no such order was communicated to the applicant.

4. I have heard the learned counsel for the parties and gone through the records.


5. Learned counsel for the applicant submits that in the OA only the reversion order of 6 other persons also similarly situated whose reversion was also quashed and respondents have not taken any final decision by giving a show cause notice for reversion in case of any one of the applicants. It has been stated that the request of the applicant for acceptance of voluntary retirement is pending and has also not been communicated and applicant had a right to resume duty. The request of the applicant for voluntary retirement is deemed to have been accepted and applicant has also referred to a judgment in **J.Jiwan Lal Vs. Union of India** given by Madras Bench of the Tribunal wherein it has been observed that a Government servant who has completed 30 years of service cannot be compelled to work when he wishes to retire voluntarily. He has also referred another judgment of **S.K. Jain vs. Union of India** of Hyderabad Bench wherein it has also mentioned that the purpose of stipulating 3 months notice

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is to enable the concerned authority to make alternative arrangements for retirement comes into effect on expiry of the three months of the date referred to in the letter seeking voluntary retirement and it is not for the purpose of allowing the concerned authority to accept or not to accept the voluntary retirement.

6. Counsel for the applicant also submitted that disciplinary proceedings against the applicant were pending at the time when he was issued notice though he was not under suspension and he was working. So following this judgment I find that since the period of 90 days notice has expired the department is not under obligation to accept the notice of voluntary retirement. However, keeping in view that the department had taken an action on the notice issued by the respondents after 5.1.2001 keeping the request for voluntary retirement of the applicant pending. So in these circumstances I direct the respondents to take a decision whether to initiate an action for reversion is to be taken against the applicant or not within a period of one month and if no decision is taken it will be deemed that applicant ^{has} ~~will~~ retired on 7.1.2001. The counsel for the applicant also makes a request that ^{if} ~~since~~ he ^{is} ~~has~~ treated that his notice for voluntary retirement has been deemed to have been accepted so ^{intervening} ~~this~~ period may not be taken as unauthorised absence. OA is accordingly disposed of. No costs.


(KULDIP SINGH)
Member (J)

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