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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO.229/2010

Date of Order: 25.08.2010

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER
HON'BLE Mr. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Mubarik Khan S/o Shri Subhan Khan, aged about 59 years, the applicant is R/o Amali Ki Dhani, Shekh Nagar, Post Pipar Road, Tehsil Bhopalgarh, District Jodhpur. At present posted as Trackman, Gang No.4, Bhavi, Pipar Road, Jodhpur. (N.W. Railway).

....Applicant

Mr. Mohd. Sajid, proxy counsel for
Mr. Sanjeet Purohit, counsel for applicant.

VERSUS



1. Union of India, through the General Manager, Northern-Western Railway, Ganpati Nagar, Jaipur.
2. The Divisional Railway Manager, Northern-Western Railway, Jodhpur.
3. The Assistant Divisional Engineer, Northern-Western Railway, Jodhpur.
4. The Senior Section Engineer (Railway), Piapr Road, Northern-Western Railway, Jodhpur.

.....Respondents

ORDER (ORAL)

(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

Heard learned counsel for applicant.

2. Vide order dated 27.06.1973, (annex. A/4) the applicant was appointed on regular basis. On 21.04.2006, Respondent No.2 issued a scheme vide which any employee within the age of 50-57 and who have completed 33 years service as on 30.06.2006 can apply for voluntary retirement and seek compassionate appointment for his dependant in his place. The applicant submitted his application for voluntary retirement on 22.06.2006



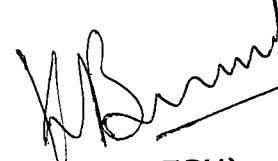
i.e. five days prior to completion of 33 years of service. However, no orders were passed by the respondents on his request. Thereafter, the applicant filed several representations but in vain. Apparently, on 18.01.2010 the applicant was informed that his application had already been rejected as he has not completed 33 years of service when he submitted his application for voluntary retirement as per the scheme.

3. We have perused the scheme. In the scheme, it has been mentioned that a person who completes 33 years of service on or before 30.06.2006, can seek voluntary retirement and ask for compassionate appointment of his dependant in his place. The fact that his application was submitted five days prior to completion of 33 years of service cannot deprive him the benefit of the scheme since the same is a welfare scheme. In view of the fact that the applicant was in service of the railways for so many years, and the scheme being a welfare one, the communication dated 18.01.2010 (Annexure-A/1) informing him that he is not eligible to get the benefit of the scheme quoted above, is quashed and respondents are directed to reconsider the case of the applicant after giving an opportunity of hearing by giving him a notice in advance. OA is allowed to the extent indicated above. No order as to costs.


(V.K. KAPOOR)
Administrative Member

/Rss/




(Dr. K.B. SURESH)
Judicial Member

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Review Application No.28/2010

with

Misc. Application No.186/2010

with

Misc. Application No.187/2010

in

Original Application No.229/2010

Date of decision:24.11.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

1. Union of India through the General Manager, North-West Railway, Ganpati Nagar, Jaipur.
2. The Divisional Railway Manager, North-West Railway, Jodhpur.
3. The Assistant Divisional Engineer, North-West Railway, Jodhpur.
The Senior Section Engineer (Railway), Pipar Road, North-Western Railway, Jodhpur.

: Applicants

Mr. Manoj Bhandari, counsel for applicants.

Versus

**COMPARED &
CHECKED**

Mubarik Khan S/o Shri Subhan Khan, R/o Amali Ki Dhani, Shekh Nagar, Post Pipar Road, Tehsil Bhopalgarh, District Jodhpur. At present posted as Trackman, Gang No.4, Bhavi Pipar Road, Jodhpur (N.W. Railway).

Respondents

Mr. Anish Ahmed, counsel for respondent.

ORDER (ORAL)

Per Dr. K.B. Suresh, Judicial Member

This Review Application has been filed by the applicants (respondents in O.A. No.229/2010) indicating that there were factual errors in the premise relied on by the Tribunal while passing the orders in O.A. No.229/2010. With the assistance of

both the learned counsels, we had gone through the whole matrix and found that infact there is such a lacunae in the matter relied on by the Tribunal. Therefore, this review application is allowed and the order dated 25.08.2010 passed in O.A. No.229/2010 is hereby recalled. Accordingly, both the MAs for condonation of delay in filing of this R.A. and stay of the operation and execution of the order of the Tribunal passed in O.A. No.229/2010, are also disposed of.

Post the O.A. No.229/2010 on 28.11.2011 for admission.

sd/-
[Sudhir Kumar]
Administrative Member

sd/-
[Dr. K.B. Suresh]
Judicial Member

CERTIFIED TRUE COPY
Dated 26.11.11

SD
 अनुसार सचिवालय (न्याय.)
 Section Officer (Judl.)
 केन्द्रीय प्रशासनिक अधिकारण
 Central Administrative Tribunal
 जोधपुर न्यायपीठ, जोधपुर
 Jodhpur Bench Jodhpur