

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.421/2007

Tuesday this the 23 rd day of October, 2007.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

P.Raghavan Pillai,
S/o Late Parameswaran Nair,
Senior Drainage Khalasi,
Office of the Section Engineer, Works,
Southern Railway, Trivandrum,
Residing at: Meleputhu Veedu, Manalur,
Neyyattinkara Post, Trivandrum Dist. Applicant

(By Advocate Shri TC Govindaswamy)

Vs.

1. Union of India represented by the
General Manager, Southern Railway,
Head Quarters Office, Park Town P.O.,
Chennai-3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum. Respondents

(By Advocate Shri Thomas Mathew Nellimoottil)

The application having been heard on 23.10.2007,
the Tribunal on the same day delivered the following.

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant was working as a Group 'D' Senior Drainage Khalasi and was placed under a lower medical category. As he could not be provided an alternate appointment he was put in a supernumerary post. By an application dated 20.2.2007 he had requested for voluntary retirement with effect from 1.5.2007. An endorsement was made on his application stating that his voluntary retirement cannot be accepted as the applicant did not complete 20 years of service. The applicant moved another application (A-4) dated 28.5.2007

stating that his retirement is based on the fact that he has crossed 55 years of age and the provision exists for voluntary retirement beyond that age. In response to the same the respondents have rejected his application on the same ground that the applicant had not completed 20 years of qualifying service. Hence, this O.A.

2. The respondents have contested the O.A. and their main contention as contained in para 4 is as under:

"Further it is submitted that the applicant has not requested curtailment of the Notice period of three months for voluntary retirement. Not conceding the claim in the Annexure-A1 & A4, it is humbly submitted that the three-month period counted from Annexure A1 expired on 20.5.2007 and the three-month period counted from Annexure A-4 expires on 27.8.2007. However, the prayer for voluntary retirement from 30.6.2007/1-7-2007 is not falling either of these dates. In addition to this, the inconsistency in the prayer as regards the date of voluntary retirement, as pointed out in the above paragraph, calls for a dismissal of the O.A., it is humbly submitted."

3. Counsel for the applicant submitted that the case is covered by at least two decisions of this Tribunal as contained in A-6 and A-7. Counsel for the respondents reiterated the contention as contained in para 4 of the counter extracted above.

4. Arguments were heard and documents perused. Admittedly, the applicant is above 55 years of age and he has chosen to avail of the provisions under Rule 1802 (b)(i) of the Indian Railway Establishment Code- Vol. II. The said Rule reads as under:

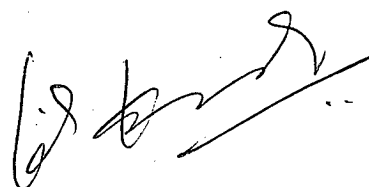
"(b) (1) Any railway servant may by giving notice of not less than three months in writing to the appropriate authority, retire from service after he has attained the age of fifty years if he is in Group 'A' or Group 'B' service or post (and had entered Govt. service before attaining the age of 35 years) and in all other cases after he has attained the age of 55 years:

Provided that it shall be open to the appropriate authority to withhold permission to a railway servant under suspension who seeks to retire under this clause."

5. This Rule does not specify that the provisions of this Rule would be availed of only after completion of 20 years of service. There is only one bar that it shall be open to the appropriate authority to withhold permission to Railway servants under suspension. That is not the case here. As regards the other contentions of the respondents, it is seen from the records that the applicant's initial application dated February, 2007 and his further application dated 28.5.2007 has to be treated only as in continuation thereof. As such, the applicant fulfills the conditions specified in Rule 1802 of the Code. It has also been stated that, there has been inconsistency in the prayer. In the prayer column the applicant has clearly mentioned that she is entitled to voluntary retirement w.e.f. 1.7.2007. The date 30.6.2007 reflects the date up to which he was in service.

6. In view of the above, the O.A. is allowed. Respondents are directed to pass requisite orders and arrangements shall be made for making available the pension and other terminal benefits to the applicant in accordance with rules. Respondents are directed to comply with these orders within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 23 rd October, 2007.



Dr.K.B.S.RAJAN
JUDICIAL MEMBER