

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 296 of 2006**

Date of order :// ⁶⁶ April, 2008

C O R A M

Hon'ble Mr. Amit Kushari, Member[Admn.]

Jugeshwar Mistry, son of late Ram Kishun Mistry, resident of Village – Mekara Bujurg, P.O. - Mekara Bujurg, P.S. Mokama, District – Patna at present working as Special Grade Driver [Electric], E.C. Railway, Jhanjha under Sr. Divisional Electrical Engineer, E.C. Railway, Danapur [Bihar]. **Applicant.**

Vrs.

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, E.C. Railway, Hazipur.
3. The Chief Personnel Officer [G.M. (P)], E.C. Railway, Hazipur.
4. The Divisional Railway Manager, E.C. Railway, Danapur.
5. The Sr. Divisional Personnel Officer, E.C. Railway, Danapur.
6. The Sr. Divisional Electrical Engineer, E.C. Railway, Danapur.

..... **Respondents.**

Counsel for the applicant : Shri M.P.Dixit

Counsel for the respondents : Shri D.K.Sinha, ASC

fu

ORDER

Amit Kushari, Member[A] : -

The applicant was working as Special Grade Driver [Electric] in E.C. Railway under the administrative control of Respondent No.6, Senior Divisional Electrical Engineer, E.C. Railway, Danapur. Since the applicant's date of birth was 1.7.1947, he superannuated on 1.7.2007 in the normal course after attaining 60 years of age. At the time of filing of this O.A. the applicant was 59 years of age. On 2.1.2004, the Railway Board had issued a scheme of safety related voluntary retirement for Drivers and Gangmen. The Railway Board's scheme mentioned that the Drivers between the age of 50 to 57 years of age and who have completed 33 years of service could seek voluntary retirement and if this is granted then one ward or dependent of the retiree would be entitled for appointment against a suitable post in the railways. As soon as the scheme was announced, the applicant on 22.4.2004 applied for voluntary retirement and simultaneous appointment of his son. The respondents did not accept his request for voluntary retirement and kept silent. The immediate superiors of the applicant sought clarification from their higher authorities and accordingly, the General Manager sought clarification from the Railway Board and this



correspondence continued. There were some doubts regarding the proforma to be fixed for filing application and ultimately after prolonged correspondence, the Railway Board circulated the scheme to all the General Managers asking them to obtain requests under the scheme. The proforma for application was also framed up and it was mentioned that the age that would be relevant for applying would be the age as on 30th June, of the year of application. By the time the formalities were completed, it was already 2005 and the applications were invited by the General Manager, E.C. Railway in May, 2005. The applicant immediately applied in May, 2005 on the prescribed proforma. However, on 30th June, 2005, the applicant had completed 58 years of age and, therefore, he did not fulfill the eligibility criteria under the scheme. Therefore, his request for voluntary retirement was not accepted and his son also was not appointed. Hence, this O.A.

2. Shri M.P. Dixit, ld. counsel while arguing on behalf of the applicant points out that the respondents took an unusually long time – to finalize the format of the application and to call for the applications through the General Manager. During this one year delay, the applicant became over-aged and his application was rejected on the ground of being over-aged. Thereafter, the applicant attained his normal age of superannuation and

Am

retired in June, 2007. The ld. counsel for the applicant pointed out that grave injustice has been done to the applicant. If the authorities had not taken one year time to call for the applications and to fix up the proforma for application and if they had acted promptly as soon as the scheme was announced in January, 2004 then the applicant's voluntary retirement could have been accepted in 2004 itself and his son could have been appointed. He says that the applicant should not be made to suffer for the administrative delays on the part of the respondents.

3. The ld. counsel for the respondents, Shri D.K. Sinha argued that the application given by the applicant in January, 2004 was on a plain-sheet of paper before the scheme could be even circulated to the General Managers of the different railways – and before the General Managers could ask for applications in the prescribed proforma. Applications cannot be accepted in the haphazard way he argued - and the applicant should have been waited for the scheme to be formally announced and circulated by the General Manager. Obviously the applicant knew that he will become over-age by the time the scheme is circulated and so in a great hurry, he applied on a piece of plain paper. He said, applications made in huff on plain paper cannot be accepted. The respondents have to take into consideration many aspects and decide as to whether voluntary retirement of the person can be

fu

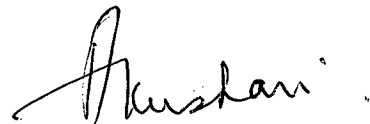
accepted or not on the grounds of security of the railways and health of the applicant and the application should definitely be made in the prescribed proforma giving the requisite information and data. Therefore, the respondents say that they have not committed any mistake by rejecting the applicant's claim for voluntary retirement. The learned counsel also says that it is the right of the respondents to accept or reject a request for voluntary retirement. Accepting of voluntary retirement cannot be claimed as a right by any applicant as it is the prerogative of the Govt. to decide as to whether in the interest of Government work the request of voluntary retirement can be accepted or not.

4. I have carefully considered the arguments of both the sides and I have also perused the pleadings carefully. It is true that accepting of a voluntary retirement application cannot be claimed as a matter of right of the applicant. The Govt. has to weigh the pros and cons and to take a decision as to whether the application can be accepted or rejected. In an important scheme like this, the authorities took one year's time to finalize the modalities and formalities as well as the application proforma. This cannot be questioned. True, they should have preferably completed the exercise in a shorter time like say six months – but if they have taken one year's time, it cannot be said that they have taken an unreasonable time. It is



unfortunate that the applicant crossed the age limit of 57 years by that time - but it is his personal bad luck - for which he cannot blame the respondents. Besides the applicant retired in the normal course on 30th June, 2007 after attaining the age of 60 and after such a normal retirement there can be no claim for appointment of the applicant's son following voluntary retirement. The subsequent normal retirement of the applicant, therefore, has further weakened his case.

5. Under these circumstances, I do not find any merit in this application. The O.A. is, therefore, dismissed. No costs.



[Amit Kushari]
Member [Admn.]

mps.