

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1066/98

Date of Decision: 3.5.1999

Shri Tanaji Shankar Mane

Applicant.

Shri Y.J. Master.

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri Suresh Kumar.

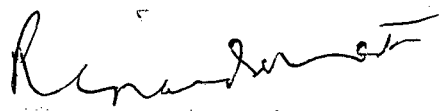
Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S.Baweja, Member (A)

- (1) To be referred to the Reporter or not? *NO*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 1066/98

Monday the 3rd day of May 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

Tanaji Shankar Mane
resident of Shalimar Chowk
Daund, Dist. Pune.

... Applicant.

By Advocate Shri Y.J. Master.

V/s.

Divl. Railway Manager
Central Railway,
Sholapur

Union of India
through General Manager
Central Railway,
C.S.T. Mumbai.

... Respondents.

By Advocate Shri Suresh Kumar.

O R D E R (ORAL)

{ Per Shri Justice R.G.Vaidyanatha, Vice Chairman }
This is an application filed under

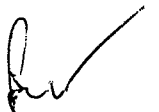
Section 19 of the Administrative Tribunals Act 1985.

The respondents have filed reply. We have heard
the learned counsel for both sides regarding
admission.

2. The applicant's main grievance is that
inspite of giving notice of voluntary retirement
dated 10.4.1998, the respondents have not accepted
the same and therefore the applicant wants a
direction to the respondents to accept the notice
of voluntary retirement.

The respondents have stated that the
notice of voluntary retirement was not accepted
since disciplinary enquiry is pending against the
applicant.

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After hearing both sides we find that the action of the respondents is fully justified and is covered by the Railway Board circular, which is exhibit R-1 to the reply. The circular gives discretion to the competent authority to reject the notice of voluntary retirement if disciplinary proceedings is either pending or contemplated against the Railway servant. Since in the present case the disciplinary enquiry is pending against the applicant, the competent authority ^{has} not committed any illegality in rejecting the notice of voluntary retirement.


3. In the O.A. the applicant has also sought a declaration of removal from service from the post of Diesel Helper (Mech.) is null and void. At the time of argument it is brought to our notice that the order was passed in 1993 and subsequently the applicant ^{was} given another job. It appears ^{he} when the applicant ^{challenge} challenged the order of removal from service and the revisional authority while passing the order granted fresh appointment to the applicant. Hence applicant cannot challenge the order after a lapse of seven years. In our view the O.A. is not maintainable for the above reasons.

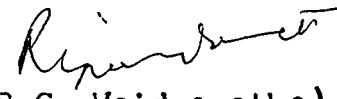
4. At this stage the learned counsel for applicant states that the respondents are not allowing the applicant to join the duty. Since there is no prayer in the O.A., we cannot grant any relief. However we give liberty to the applicant to make representation to the respondents to take him on duty, if necessary produce the medical fitness

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certificate. On such representation the competent authority may pass appropriate order as per law.

5. In the result the O.A. is disposed of at the admission stage subject to above observations.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

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