

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00470/2014

DATE OF ORDER: 03.02.2015

CORAM**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

K.M. Meena S/o Shri Ram Gopal Meena, aged about 46 years, at present working on the post of Catering Inspector under the office of Kota Division, Kota, R/o C/o Gopal Sharma Ex-TTE, Near Shiv Mandir, Gali No. 2, Bapu Colony, Kota (Rajasthan).

...Applicant

Mr. S.S. Ola, counsel for applicant.

VERSUS

1. The Union of India through the General Manager, West Central Railway, Jabalpur (M.P.).
2. The Chief Personnel Officer, West Central Railway, Jabalpur (M.P.).
3. The Chief Commercial Manager, West Central Railway, Jabalpur (M.P.).
4. The Senior Divisional Commercial Manager, West Central Railway, Kota Division, Kota.
5. The Senior Divisional Personnel Officer, West Central Railway, Kota Division, Kota.

...Respondents

Mr. R.G. Khinchi, counsel for respondents.

ORDER

The applicant has filed the present Original Application praying for the following reliefs:

"i) The impugned order (Annexure A/1) dated 8.8.2014 as well as (Annexure A/3) dated 14.7.2014 may kindly be quashed and set aside and further may kindly be directed to respondents that the applicant may be allowed for withdrawing of voluntary retirement which is filed by the applicant.



ii) Any other relief which is found just and fit and proper in the facts and circumstances of the case may very kindly be passed in favour of the applicant."

2. The short controversy involved in the present Original Application, as stated in the pleadings of the Original Application, is that the applicant filed an application on 05.06.2014 (Annexure A/2) for seeking voluntary retirement from service due to his family problems, which was accepted by the respondents vide letter dated 14.07.2014 (Annexure A/3) treating the application of the applicant dated 05.06.2014 as the notice period and consequently the applicant was to retire on 04.09.2014 from the Railway Service. However, during the pendency of this three months' notice period, the applicant again submitted an application dated 17.07.2014 (Annexure A/4) for the cancellation of his earlier request for voluntary retirement on the ground that his family problems were over. However, this request of the applicant has been rejected by the respondents vide letter dated 08.08.2014 (Annexure A/1).

3. It has been further stated that the respondents rejected the appeal of the applicant without any cogent and proper reason and, therefore, the action of the respondents is against the principle of natural justice. The respondents are deliberately compelling the applicant for taking voluntary

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retirement from service, therefore, he prayed that the order dated 08.08.2014 (Annexure A/1) and order dated 14.07.2014 (Annexure A/3) be quashed and set aside.

4. On the other hand, the respondents have filed their reply. In the reply, it has been stated that vide application dated 05.06.2014, the applicant requested for voluntary retirement from service due to his family problems, which was accepted by the respondents vide order dated 14.07.2014. It has further been stated that the applicant submitted a representation against the order of the voluntary retirement from service dated 14.07.2014, which has been rejected by the competent authority. The respondents are empowered to accept or reject such request of the applicant. The order of rejection passed by the respondents dated 08.08.2014 is perfectly legal and valid, therefore, the present Original Application has no merit and it should be dismissed with costs.

5. The applicant has also filed a rejoinder and the respondents have also filed reply to the rejoinder.

6. Heard the learned counsel for the parties and perused the documents available on record and the case law as referred to by the learned counsel for the applicant.

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7. Learned counsel for the applicant reiterated the facts as stated in the Original Application. In support of his arguments, he referred to the order of the Central Administrative Tribunal, Jabalpur Bench, Jabalpur dated 30th November, 2006 in OA No. 21/2005 in the case of **Ramayan Ram vs. Union of India & Ors.** (Annexure A/7). He also referred to the order of the Central Administrative Tribunal, Lucknow Bench, Lucknow dated 04.06.1997 in OA No. 896/1993 in the case of **Syed Abbas Raza Rizvi vs. Union of India and Ors.**, reported in 1998 (3) (CAT) SLJ 71. He also drew my attention to the Circular issued by the Ministry of Railways, Railway Board, dated 26.05.2008 (Annexure A/6).

8. On the contrary, learned counsel for the respondents argued that the respondents are entitled to refuse or to accept the request of the applicant for the withdrawal of his voluntary retirement from service. The respondents have passed a speaking order dated 08.08.2014 (Annexure A/1), which has been communicated to the applicant. Therefore, the Original Application has no merit and it should be dismissed.

9. It is not disputed that the applicant applied for voluntary retirement vide application dated 05.06.2014 (Annexure A/2), which was accepted by the respondents vide order

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dated 14.07.2014 (Annexure A/3). This voluntary retirement was to be effective from 04.09.2014. However, before this period was over, the applicant submitted an appeal to withdraw his request for voluntary retirement vide application dated 17.07.2014 (Annexure A/4), which has been rejected by the respondents vide order dated 08.08.2014 (Annexure A/1).

10. I have carefully perused the order dated 26.05.2008 (Annexure A/6) issued by the Ministry of Railways, Railway Board, which deals with the instructions/clarification regarding voluntary retirement of railway employees – withdrawal of request for voluntary retirement within notice period. Para 2 of this order dated 26.05.2008 is quoted below: -

"2. It is reiterated that the Railways should consider such requests in a reasonable and rational manner and refuse only if there are valid reasons for doing so which should also be recorded and conveyed to the concerned employee within the stipulated time..

A bare perusal of these instructions / clarifications shows that the railway-department should consider the request of the employees for withdrawal of voluntary retirement in a reasonable and rational manner and refuse only if there are valid reasons for doing so which should also be recorded and conveyed to the concerned employee within the stipulated time.

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11. I have also carefully perused the order dated 08.08.2014 (Annexure A/1) by which the request of the applicant for withdrawal of voluntary retirement has been rejected. It is seen that not even one reason has been recorded in this order as to why his request for withdrawal of voluntary retirement cannot be accepted. No valid or cogent reasons have been recorded by the respondents in this order. Therefore, I am of the firm opinion that the request of the applicant for withdrawal of his voluntary retirement from service has not been dealt with in a reasonable and rational manner as required vide order dated 26.05.2008 (Annexure A/6).

12. I have carefully perused the order of the Central Administrative Tribunal, Jabalpur Bench, Jabalpur passed in the case of Ramayan Ram vs. Union of India & Ors. (supra). I am of the considered opinion that the ratio decided by the Central Administrative Tribunal, Jabalpur Bench in the said case is squarely applicable under the facts and circumstances of the present Original Application.

13. I have also carefully perused the order of the Central Administrative Tribunal, Lucknow Bench, Lucknow in the case of Syed Abbas Raza Rizvi vs. Union of India & Ors. (supra). I am of the considered opinion that the ratio decided by the Central Administrative Tribunal, Lucknow

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Bench, Lucknow in the said case is squarely applicable under the facts and circumstances of the present Original Application.

14. Therefore, on the basis of discussions made hereinabove, the order dated 08.08.2014 (Annexure A/1) is quashed and set aside and the order dated 14.07.2014 (Annexure A/3) shall also not be given effect to in view of the request of the applicant for withdrawal of voluntary retirement dated 17.07.2014 (Annexure A/4).

15. With these observations and directions, the Original Application is allowed. There shall be no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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