

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.323/99

Date of order: 10.11.2000

Chhotey Lal M.Sharma, S/o Sh. Mangal Sen Sharma, Chief T.R.,
Carriage & Wagon Shop, Ajmer.

...Applicant.

Vs.

1. Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Railway Manager (E), W.Rly, Kota Division, Kota.

...Respondents

Mr.S.K.Jain - Counsel for Applicant.

Mr.M.Rajgopal - Counsel for respondents.

Mr.Hemant Gupta)

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1995, the applicant makes a prayer to quash and set aside the order dated 28.9.98 and order dated 10.3.99 and to grant all consequential benefits regarding pay, reinstatement, pension, arrears of pay, etc to the applicant.

2. In brief the case of the applicant is that he submitted a letter of request dated 30.6.98 for voluntary retirement. Thereafter, the applicant sent letter dated 11.9.98 through proper channel withdrawing his request for voluntary retirement. It is stated that the respondents issued letter dated 28.9.98 (Annex.A1), retiring the applicant in the afternoon of 29.9.98. Against this order, the applicant filed representation but his request was disallowed by impugned order dated 10.3.99. It is stated that the voluntary retirement sought w.e.f. 30.9.98 can be withdrawn by the applicant at any time before it is made effective but the respondents in spite of his withdrawal for voluntary retirement before it was made effective, has not accepted the request. Therefore, the applicant filed this O.A for the relief as mentioned above.

[Signature]

3. Reply was filed. In the reply, it is stated that the applicant requested for cancellation of his voluntary retirement and the competent authority was only empowered to accept the withdrawal of the voluntary retirement, therefore, his request could not be acceded to and the impugned orders dated 28.9.98 10.3.99 were issued. According to the respondents, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. It is the settled position that notice for voluntary retirement can be withdrawn before the voluntary retirement is made effective. In Shankhu Murari Sinha Vs. Project and Development India & Anr, 2000 SCC (L&S) 741, Hon'ble Supreme Court held that the offer of voluntary retirement can be withdrawn before it is made effective. Hon'ble the Apex Court followed its earlier decisions in Palram Gupta Vs. UOI, 1987 Supp. SCC 228, J.N.Srivastava Vs. UOI (1998) 9 SCC 559, and Power Finance Corp Ltd Vs. Framcd Kumar Bhatia (1997) 4 SCC 280, and reached to the conclusion that offer of voluntary retirement can be withdrawn by the person concerned before it is made effective.

6. In the instant case, admittedly, the applicant made application on 30.6.98 to seek voluntary retirement after expiry of notice. It is also an undisputed fact that the applicant vide his application dated 11.9.98 made a request to withdraw the offer for his voluntary retirement to which the respondents' department interpreted that it was an application for cancellation of voluntary retirement. It was incumbent upon the respondents' department to appreciate the intention of the applicant while filing an application. But the respondents' department without considering the intention of the applicant, rejected his application for withdrawal of voluntary retirement without any rhyme or reason. Therefore in view of the settled legal position and facts and circumstances of this case, I am of the considered opinion that the applicant is entitled to the relief sought for.

[Handwritten signature]

7. I, therefore, quash and set aside the order dated 28.9.98 and 10.3.99 and direct the respondents to treat the applicant continues in service and to allow all consequential benefits.

8. No order as to costs.


(S.K. Agarwal)

Member (J).