

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 28th August, 2008

ORIGINATION APPLICATION NO. 424/2007

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Abdul Gani son of Shri Abdul Hamid by Caste Muslim aged 60 years,
resident of Baba Colony, Gali No. 2, Pratap Colony, Rangpur Road,
Kota.

.....APPLICANT

(By Advocate: Mr. S.K. Jain)

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur.
2. Sr. Divisional Electrical Engineer (TRO) Kota Division, West Central Railway, Kota.
3. Divisional Railway Manager, West Central Railway, Kota Division, Kota.

.....RESPONDENTS

(By Advocate: Mr. Anupam Agarwal)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- “(i) That by an appropriate order or direction the impugned order Annexure A/1 dated 19.7.2007 be quashed and set aside. The respondents be directed to issue the orders for payment of retrial benefit along with PF and gratuity and other amount due in the form of salary with interest at the rate of 24% p.a. on the basis that the applicant is deemed to have retired from service on voluntary retirement w.e.f. 11.8.2007 or from the date of application dated 11.5.2007.

- (ii) The respondents be restrained from initiating any disciplinary action on the basis of alleged absence from service after the application dated 11.5.2007 Annexure A/2.
- (iii) Any other relief this Hon'ble Tribunal may deem fit may also be granted."

2. Briefly stated facts of the case are that the applicant submitted an application dated 11.5.2007 for taking voluntary retirement. The respondents vide letter dated 19.07.2007 (Annexure A/1) rejected the request of the applicant for voluntary retirement on the ground that Writ Petition/promotion of the applicant is pending in the Hon'ble High Court. It is this order, which is challenged before this Tribunal.

3. Notice of this application was given to the respondents. The respondents have filed reply. In the reply, the respondents have stated that this application has become infructuous as the applicant has retired on superannuation on 31.12.2007.

4. The applicant has filed rejoinder thereby reiterating the facts stated in the OA.

5. In sum & substance the facts of the case, as stated by the applicant, are that since he has submitted his application for voluntary retirement on 11.05.2007, the respondents have not conveyed any rejection and as such, after expiry of three months, the applicant shall be deemed to have been retired on superannuation. Respondents in the reply have stated that the competent authority has taken a decision on 15.05.2007 not to accept the voluntary retirement of the application and on the basis of which the impugned order dated 19.07.2007 (Annexure A/1) was conveyed to the applicant. It is further stated that letter dated 19.07.2007 was tried to serve upon the applicant by CTCC Kota through his letter dated 24.07.2007 but he refused to accept the same and accordingly this fact was recorded in the presence of two witnesses. Copy of letter dated 24.07.2007 is enclosed herewith and marked as Annexure R/3. Thus according to

the respondents, it is not ^{& a case of} deemed acceptance of voluntary retirement as such decision was taken before three months from the date of submission of the application dated 11.05.2007.


6. We have heard learned counsel for the parties. Without going into merit of the case, we are of the view that since applicant retired on superannuation on 31.12.2007 and he has worked on the post on which he was superannuated ^{up to} 31.12.2007, as such no fining is required on the point whether it is a case of deemed acceptance of the voluntary retirement. Thus we agree with the submission of the learned counsel for the respondents that the present OA has become infructuous and as such no relief can be granted to the applicant.

7. Learned counsel for the applicant argued that respondents have with-held an amount of Rs.50,000/- (Rupees fifty thousand only) from the retrial benefits of the applicant on the flimsy ground that a Writ Petition No. 334/2007 is pending before the Hon'ble High Court. According to the learned counsel for the respondents, such a course was not permissible for the respondents.

8. In view of what has been stated above, since this part of the contention has not been pleaded in this OA, as such we are of the view that in case the applicant is aggrieved on this count, it will be open for him to file substantive OA.

9. With these observations, the OA is disposed of with no order as to costs.


(B.C. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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