

**ORDERS OF THE BENCH**

**Date of Order: 25.09.2012**

OA No. 524/2010

Mr. S.S. Ola, counsel for applicant.  
None present for respondents.

At the request of learned counsel for the applicant, put  
up the matter on 11.10.2012 for hearing.

*K.S. Rathore*  
(JUSTICE K.S. RATHORE)  
JUDICIAL MEMBER

Kumawat

11/10/2012

OA No. 524/2010

Mr. S.S. Ola, Counsel for applicant.  
Mr. Sudesh Kumar Saini, Counsel for  
respondents.

Heard.

O.A. is disposed of by a separate  
order on the separate-sheets for  
the reasons recorded therein.

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*K.S. Rathore*  
[Justice K.S. Rathore]  
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 524/2010

**DATE OF ORDER:** 11.10.2012

**CORAM**

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER**

Ummed Singh S/o Shri Bhanwar Singh, aged about 43 years, at present working on the post of Sr. Clerk at P.W.I. Fathepur Shekhawati, N.W.R., Jhunjhunu, Raj. R/o House No. 80 Vinayak Vihar, Gandhi Path West, 200 Ft. By-pass, Near Tejaji Temple, Lalarpura, Vaishali Nagar, Jaipur (Raj.).

...Applicant

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

**VERSUS**

1. The Union of India through General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Divisional Office, Jaipur.
3. Sr. D.P.O, N.W.R., Divisional Office, Jaipur.
4. A.D.E.N. (N.W.R.), Railway Station Sikar Junction Sikar, Raj.
5. P.W.I. (N.W.R.), Railway Station Fathepur Shekhawati, Sikar (Raj.).

...Respondents

Mr. Sudesh Kumar Saini, counsel for respondents.

**ORDER (ORAL)**

Brief facts of the case, as stated by the applicant, are that the applicant submitted an application dated 19.04.2010 before the respondents requesting for voluntary retirement stating that he has completed 22 years regular service, as such he may be granted voluntary retirement, but the respondents did not take any action on the said application within a period of 90 days. Therefore, the applicant sent a legal notice to the respondents on 21.09.2010 (Annexure A/4) but the respondents have not taken



any action on the said legal notice. As such, applicant submitted a representation dated 04.10.2010 (Annexure A/5) to the respondents requesting for voluntary retirement and for getting the benefit of second A.C.P., however, the respondents were not taken any action on the said representation. The applicant also submitted a detailed representation dated 15.10.2010 (Annexure A/1) to the respondents requesting for voluntary retirement as well as for getting the benefits of second ACP. )

2. Aggrieved and dissatisfied from the inaction of the respondents that the application of the applicant for voluntary retirement has not been considered by the respondents within the stipulated period, and further the respondents have not granted the salary, pension as well as pensionary benefits to the applicant, besides the benefit of the second ACP has not been granted to him, the present Original Application has been filed by the applicant praying that the respondents may be directed to give voluntary retirement as well as pensionary benefits to the applicant and further the respondents may be directed to give the benefits of the second ACP on completion of 20 years of service to the applicant.

3. In reply, it is submitted by the respondents that the appointment of the applicant was not on regular basis but was temporary in nature in view of order dated 03.11.1988, therefore, the contention of the applicant that he was initially appointed on the post of Clerk on 03.11.1988 on regular basis is totally baseless and false. It is further submitted on behalf of the



respondents that the applicant remained willful absent for a particular period and that period has not been counted for the purpose of qualifying service. It is also submitted on behalf of the respondents that the applicant was informed vide order dated 13.10.2010 (Annexure R/1) that as per his service record, he has not completed 20 years qualifying regular service, therefore, he cannot be granted voluntary retirement.

4. Learned counsel appearing for the applicant submits that the applicant only came to know, having gone through the reply filed by the respondents to the present O.A., about order dated 13.10.2010 (Annexure R/1 ) that he has not completed requisite 20 years regular service as per his service record, therefore, his request for voluntary retirement has been turned down.

5. The allegations alleged in the reply and submissions made on behalf of the respondents have strongly been controverted by the learned counsel appearing for the applicant submitting that the applicant was never served with any notice with regard to the willful absence and further Annexure R/1 order dated 13.10.2010 was also not served upon the applicant, therefore, the applicant was not able to represent / defend his case before the respondents and, as such, the respondents have violated the minimum principle of natural justice.

6. Having considered the rival submissions of the respective parties and upon careful perusal of the material available on record and having considered the submissions made on behalf of




the applicant that the applicant was not given opportunity of hearing to defend his case with regard to the willful absence and with regard to the qualifying service, therefore, without entering into the merits of the case, I feel that the ends of justice would be met if the respondents are directed to re-consider the case of the applicant by providing him the opportunity of hearing and thereafter to pass a reasoned and speaking order in this regard.

7. In view of the discussions made hereinabove, the respondents are directed to re-consider the case of the applicant for voluntary retirement as well as for granting the benefit of second ACP by providing him the opportunity of hearing to defend his case, and after considering his representation, which shall be filed by the applicant; the respondents shall pass a fresh reasoned and speaking order expeditiously but in any case not later than a period of three months from the date of receipt of a copy of the representation from the applicant.

8. However, if any prejudicial order against the interest of the applicant is passed by the respondents, the applicant will be at liberty to challenge the same by way of filing the substantive Original Application as per rules.

9. With the above observations and directions, the Original Application stands disposed of with no order as to costs.

  
(JUSTICE K.S. RATHORE)  
JUDICIAL MEMBER