

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A. No.209/2015

Order Reserved on:14.09.2017

Order Pronounced on :27.09.2017

HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)

K. Prakash Age 56 years
Post: Sr.Loco Pilot Shunter
S/o Sh. Sohan Lal
R/o Village Bag Ranap,
Post Office Loni, Distt.Ghaziabad,
Uttar Pradesh.

.... Applicant

(By Advocate :Shri R.K.Jain)

Versus

1. Union of India
Through General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Officer,
Delhi Division DRM Office,
State Entry Road, New Delhi.
3. The Divisional Personnel Officer,
Delhi Division DRM Office,
State Entry Road,
New Delhi.

.... Respondents

(By Advocate :Shri Amit Sinha for Shri R.N.Singh)

ORDER

By Hon'ble Ms. Praveen Mahajan, Member(A):

The present OA has been filed by the applicant seeking the following relief:

- I. To quash and set aside the order dated 10.2.2014 and 13.5.2014 passed by the respondents and direct the respondents to reinstate him in service w.e.f. 10.2.2014 along with consequential benefits including arrears of pay etc.
- II. cost of proceedings may also be awarded to the applicant;
- III. any other relief which this Hon'ble Tribunal may also be passed in favour of the applicant."

2. The brief facts of the case is that the applicant was working as Senior Loco Pilot Shunter w.e.f. 02.04.1977 with the respondents department. On 24.02.2014, he received a letter dated 10.02.2014 vide which he was informed that he has been voluntarily retired from service w.e.f. 24.02.2014. The applicant submits that he made a representation to the respondents on the same day stating that his signature on the VRS application have been taken fraudulently by his supervisor/senior officer. It was also stated in the representation that since he has heavy family

responsibilities, he may be allowed to rejoin the service. On this, the respondents instituted an enquiry. On 13.05.2014, the representation of the applicant was rejected without awaiting result of the enquiry proceedings. The applicant states that he had appeared before the aforementioned enquiry on 14.05.2014. Till date however, the outcome of the enquiry is not known to him. On 22.09.2014, the applicant again made a representation to the respondents against the order of voluntary retirement received by him. A legal notice to this effect was also served upon the respondents on 10.11.2014. The applicant states that he has not received any retirement benefits till date showing that he was retired haphazardly by the respondents without following the due procedure. Aggrieved by the action of the respondents, he has filed the current OA.

3. In the counter, the respondents submit that the OA is bad in law for non-joinder of necessary parties. The applicant has levelled allegations of fraud against his supervisory officer without impleading him as a necessary party in the OA. He has neither named the officer nor

given any reason or motive for the alleged wrongdoing/fraud committed on him.

4. The respondents state that the applicant submitted the application for VRS along with forwarding letter of Sr. Crew Controller, Diesel Shed SSB on 03.12.2013 through proper channel (Annexure R-1). Necessary formalities were completed and his application for VRS was accepted by the competent authority. Notice for voluntary retirement from Railway service w.e.f. 24.02.2014 was issued to the applicant on 10.2.2014 from DRM Office, New Delhi (Annexure A-2). The Sr. Crew Controller/SSB intimated that the applicant stood retired from the Railway on 24.02.2014 at (Annexure R-3).

5. On 03.04.2014, an application was received from the applicant stating that he does not wish for voluntary retirement and that his incharge has taken his signatures fraudulently. The competent authority set up an enquiry into the allegations of the applicant which were found to be false (Annexure R-5). It is also mentioned that as per Railway Board letter No.E/P&A/1-2000/RT-9 dated 05.11.2001, an employee can withdraw his request for

voluntary retirement within the notice period of 3 months only, and not later.

6. It is submitted by the respondents that none of the grounds taken by the applicant in the OA are tenable in the eyes of law, and thus, the OA being devoid of merit deserves to be dismissed.

7. During the course of hearing, learned counsel for the applicant reiterated the contentions made in the OA. He submitted that though the signature on the VRS application was his, the rest of the letter/application had been written by his controlling officer. His case has been decided by the respondents without his concurrence. Hence, the respondents may be directed to reinstate the applicant in service with all consequential benefits including arrears of pay etc.

8. Refuting these allegations, the learned counsel for the respondents stated that application of the applicant is not only incorrect and false, but also misleading. He drew attention of the court to the enquiry report dated 21.7.2014 set up to enquire into the allegations levelled by the applicant wherein, it is stated that the applicant had broken

his leg during the course of his duty and was finding it inconvenient to carry on with his official responsibilities. Due to his broken leg he was given a light charge and posted close to his residence at Loni, Ghaziabad, on his own request.

9. It has been held that the allegation of obtaining signature of the applicant on blank paper is not proved. It emerges that after his accident, the applicant had been finding it inconvenient to discharge his official duties and sought voluntary retirement, in haste. Subsequently, he realized his mistake. He then wanted to come back to the Respondent the department which is not permissible in view of rules/guidelines on the subject as informed by the respondents through their letter dated 13.05.2014 (Annexure A-2).

10. I have gone through the facts of the case. The applicant has not been able to make out a convincing case in his favour. A plain reading of the application of the applicant for VRS available at (Annexure R-1) shows that the application has been written by applicant himself. His plea that his superior incharge took his signature on blank paper

are nothing but an after-thought to a wrong step taken by him, hastily. After processing his request, the respondents have accepted the VRS notice of the applicant, Sh. K. Prakash had applied for VRS on 25.11.2013 which was given effect to on 24.2.2014. The same cannot now be withdrawn as per rules/guidelines on the subject. Inquiry report of the IO on the subject is categorical. The allegation made by the applicant that his Sr.Crew Controlling Officer obtained his signature on the application of VRS is not proved.

11. In view of above, I find that the OA lacks merits and same is accordingly dismissed. No costs.

(Praveen Mahajan)
Member(A)

/rb/