

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00181/2017

Friday, this the 12th day of October, 2018.

CORAM:

HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER

Othayoth Anandan Nambiar,
Retired Divisional Electrical Engineer,
South Eastern Railway.
Residing at 'Ambili', Kayachira Road Junction,
P.O Cheleri, Kannur District – 670 604. - Applicant

[By Advocate Mrs. Deepa M.M]

Versus

1. Union of India represented by Secretary,
Ministry of Railways, Railway Bhavan,
New Delhi – 110 001.
2. The Chairman,
Railway Board, New Delhi – 110 001.
3. The General Manager,
South Eastern Railway,
Garden Reach, Kolkatta – 700 043. - Respondents

[By Advocate : Mr. Asif K.H]

The application having been heard on 10.10.2018, the Tribunal on 12.10.2018 delivered the following:

O R D E R (Oral):-

Per: Ashish Kalia, Judicial Member

The applicant filed this Original Application seeking the following reliefs:-

“ a) To issue a direction to the 1st and 2nd respondent to issue necessary orders to enable the applicant to treat his voluntary retirement as one of on attaining superannuation and to disburse the monetary benefits flowing from such orders.

- b) To quash Annexure 17, being cryptic and issued in violation of principles of natural justice.*
- c) Or in the alternative, direct the 2nd respondent to take up consider and pass appropriate orders on Annexure A-15 representation as assured by the Annexure A-16 communication dated 06.07.2015 issued by the 1st respondent after affording the applicant an opportunity of being heard.*
- d) To grant such other reliefs as may be prayed for and the court may deem fit to grant, and*
- e) Grant the cost of this Original Application.”*

2. Applicant entered into service with the 3rd respondent on 07.10.1963 as an Electrical Charge Man and promoted as Junior Electrical Foreman in the year 1971. Thereafter, he has further been promoted as Senior Electrical Foreman and Shop Superintendent during the span of 17 years of service. In 1988, he got promotion to the post of Assistant Electrical Engineer. He got last promotion as Divisional Electrical Engineer in the year of 1995. His actual date of superannuation was on 31.10.1997, but in the month of March 1996, he was transferred from Bilaspur to Jagadapur. Due to this unexpected transfer to a remote place, he became mentally depressed and unstable. Being left with no option of continuing service in a disgraced circumstance, the applicant quit the service seeking voluntary retirement quoting the reason “unavoidable circumstances”. He was continuously under treatment. He was declared fit for joining duty on 25.06.1996. But, his request for voluntary retirement was accepted and the applicant got retired with effect from 24.06.1996. He has sent a

representation on 19.06.2015 and the 1st respondent assured that his representation will be considered and examined by the competent authority. Thereafter, Chief Personal Officer, under 3rd respondent rejected the request of the applicant. Hence, he approached this Tribunal.

3. Notices were issued and respondents put appearance and filed a counsel statement.

4. It is submitted in the counsel statement filed by the respondents that based on three months notice dated 25.03.1996 for voluntary retirement, the competent authority accepted the same on 24.06.1996. Therefore, the applicant stands retired voluntarily from Railway Service with effect from 24.06.1996. It is further submitted that after a lapse of 21 years from the date of voluntary retirement of the applicant, he has filed this O.A which is hopelessly barred by limitation in terms of Section 21 of the Administrative Tribunals Act, 1985. As find by the Apex Court in ***C. Jacob v. Director of Geology and Mining and Another (2008) 10 SCC 115, Union of India & Ors. v. M.K. Sarkar (2010) 2 SCC 59, P.S Sadasivaswamy v. Tribunal (1975) 1 SCC 152:***

“there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. Be it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it

expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward the stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work."

5. A rejoinder has been filed by the applicant.
6. Heard Mrs. Deepa, learned counsel for the applicant and Mr. Asif, learned counsel for the respondents.
7. Applicant's grievance is that his voluntary retirement should have been converted into superannuation with effect from the date of his request, was not acceded to. From the pleadings itself, this Tribunal feels that the applicant has deliberately on transfer, quit the job, may be due to illness. The respondents submits that such conversion from voluntary retirement to normal superannuation is against the existing rules and law and beyond their powers. During the course of arguments, this Tribunal had put forward a straight forward question to the counsel for the applicant that under which provision of law the present order is assailed or this Tribunal can help the applicant herein. The learned counsel for the applicant failed to convince this Tribunal on this account. On the contrary, learned counsel for the respondents has put stress on the point of limitation. This Tribunal is not convinced of the reason of recurring cause of action, but this matter is dealt with on merit.

8. However, no favorable legal position is shown to this Tribunal by the counsel by which the applicant's case could have been considered. Even otherwise, the applicant has a meagre loss of payment on this account which is voluntary in nature, not imposed by the respondents on him. Thus, this Tribunal is of the view that this O.A fails, being devoid of merit. Hence, O.A is rejected with no order as to costs. Condonation of delay application is allowed.

(Dated, 12th October, 2018.)

(ASHISH KALIA)
JUDICIAL MEMBER

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Applicant's Annexures

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| Annexure A1 | - | True copy of the Office Order No. 458/95 dated 20.10.1995 issued by the Senior Personnel Officer, Headquarters Office, Personal Branch, GRC, Calcutta. |
| Annexure A2 | - | True copy of the relevant page of the Office Order No. 112/1996 dated 21.03.1996 issued from the Headquarters Office, Personal Branch, GRC, Calcutta. |
| Annexure A3 | - | True copy of the citation dated 14.08.1968 issued by the Divisional Superintendent, South Eastern Railway. |
| Annexure A4 | - | True copy of the certificate dated 05.08.1969 issued by B.K. Ghosh, B.Tech (Hons), Assistant Electrical Engineer (RS)/Tata Nagar. |
| Annexure A5 | - | True copy of the certificate dated 19.08.1969 issued by S.A. Padmanahan, Principal, Electric Loco Training School, South Eastern Railway, Tata Nagar (Bihar). |
| Annexure A6 | - | True copy of the Communication No. RS/BIA/E/45 dated 22.09.1980 issued from the Office of the Senior Divisional Electrical Engineer (RS), South Eastern Railway, Bhilai to the applicant. |
| Annexure A7 | - | True copy of the communication D.O. No. RS/BTA/MSG/36/83 dated 26.03.1983 issued by S.P. Mathur, Senior Divisional, Electrical Engineer (RS) to the applicant. |
| Annexure A8 | - | True copy of the Prasasthi Patr & Citation dated Nil issued by the Mandal Adheekshak, South Eastern Railway, Bilaspur to the applicant. |

- Annexure A9 - True copy of the communication dated 25.03.1996 sent by the applicant to the 3rd respondent.
- Annexure A10 - True copy of the medical certificate dated 03.04.1996 issued by the Chief Medical Superintendent, South Eastern Railway, Bilaspur.
- Annexure A11 - True copy of the medical certificate dated 09.05.1996 issued by the Chief Medical Superintendent, South Eastern Railway, Bilaspur.
- Annexure A12 - True copy of the Certificate of Fitness dated 25.05.1996 issued by the Chief Medical Superintendent, South Eastern Railway, Bilaspur.
- Annexure A13 - True copy of the medical certificate dated 29.05.1996 issued by the Chief Medical Superintendent, South Eastern Railway, Bilaspur.
- Annexure A14 - True copy the communication dated 11.06.1996 issued by the Chief Personnel Officer, South Eastern Railway accepting the application for voluntary retirement of the applicant.
- Annexure A15 - True copy of the representation dated 19.06.2015 submitted by the applicant before the Directorate of Public Grievances, Cabinet Secretariat, New Delhi.
- Annexure A16 - True copy of the intimation (Ref No. DGP/R/2015/00552(2) (SER) dated 06.07.2015 issued by the Deputy Secretary, Directorate of Public Grievances, Cabinet Secretariat, Sansad Marg, New Delhi (1st respondent).

- Annexure A17 - True copy of the communication dated 21.08.2015 issued by the Chief Personal Officer under 3rd respondent.
- Annexure A18 - True copy of the reminder dated 04.09.2015 sent by the applicant to the 2nd respondent.
- Annexure A19 - True copy of the request dated 11.09.2015 sent by the applicant to the Chief Personnel Officer, South Eastern Railway, Kolkata.
- Annexure A20 - True copy of the request dated 13.07.2016 sent by the applicant to the 3rd respondent.

Annexures of Respondents

NIL
