

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.430/2018 with MA No.381/2018

This the 27th day of November, 2018

**Coram : Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Shri Baldev
Son of Shri Bhagvanbhai Thakor
Age : 62 years
Ex. Gangman of the respondents
Residing at : Thakor Vas
Village : Sokli,
Taluka: Viramgam-382150..... Applicant
(By Advocate : Shri M.S Trivedi)

VERSUS

1. Union of India through
The General Manager
Western Railway
Churchgate, Mumbai 400 020.
2. The Divisional Railway Manager
O/o. DRM, Western Railway
Ahmedabad Division,
Nr. Chamunda Bridge, Asarwa
Ahmedabad 380 002.
3. The Sr. Divisional Finance Manager
O/o. Sr. DFM, Western Railway
Ahmedabad Division,
Nr. Chamunda Bridge, Asarwa
Ahmedabad 380 002..... Respondents

O R D E R – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Matter is at the stage of notice. It has been pleaded that applicant joined the respondents in the year 1984, was promoted as Sr. Gangman in the scale of Rs.800-1150 w.e.f 01.03.1993, was promoted further as Trolleyman Grade-II w.e.f. 17.8.2012, and to T.M.-II notionally w.e.f. 17.8.2014 and was given benefits of actual promotion of T.M.-II w.e.f. 11.6.2016. That on one fine day, in month of September, 2016 PWI-CPWI, under whom he was working, called him and informed that he has superannuated w.e.f. 30.6.2016.

2. The grievance of the applicant as appears from the OA is that he had to retire with effect from 31.5.2017 but he was treated as retired from 30.6.2016. That he preferred representation on 08.10.2016 which has not been decided. Representation dated 08.10.2016 (Annexure A-1). Last 6-7 lines of first para of the representation reveals that applicant was orally inquired whether he was having any certificate regarding his date of birth, he showed School Leaving Certificate which was having date of birth recorded as 01.6.1956 but payment slip shows date of birth as 01.5.1957 and having seen School

Leaving Certificate PWI-CPWI informed him that he has superannuated. The OA has been accompanied with application for condonation of delay also. There is delay about five months in preferring the OA. Taking in view entirety of the matter, delay is condoned and MA for condonation of delay thus is allowed.

3. Learned counsel Shri M.S.Trivedi who appeared for the applicant has contended that neither applicant was given opportunity to reply nor he was given any letter of retirement but orally was informed that applicant has superannuated. He also submitted that all payment slips, including of payment slip of August, 2016 shows the date of birth of applicant as 01.05.1957 and as per entry made in the service record of the applicant as well his date of birth is 01.5.1957 and therefore the date of retirement ought to be 31.5.2017, but applicant was retired w.e.f. 30.6.2016 and that applicant preferred representation on 08.10.2016 (Annexure A-1) but it has not been decided yet. Learned counsel, while making submissions took us to para (e) and (f) of the OA, and urged that name of applicant was also not in the list of employee who had to retire in year 2016.

4. Considered the submissions. It is settled legal position that list of persons who have to be retired needs to prepare one year in advance so that pension papers could be prepared but as per the case of applicant his name was not in the list of employees to be retired in year 2016. Moreover, if there was mistake in service record of the applicant, that have to be rectified first as per procedure, but it appear that no such exercise has been done in this case. The applicant continued in service till September, 2016 and his superannuation was treated from retrospective date, w.e.f. 30.06.2016 and that he was paid salary for the month of July and August, 2016, which is being recovered.

5. Having considered totally of the matter, we find that it would be appropriate, rather to issue notice in this, to direct the respondents to consider the representation of the applicant dated 08.10.2016 (Annexure A-1) and to take decision thereon within two months from the date of receipt of copy of this order.

6. With the above observation and direction, the OA stands disposed off.

**(M.C.Verma)
Member (J)**

**(Archana Nigam)
Member (A)**

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