

**Central Administrative Tribunal
Madras Bench**

OA/310/00653/2018

Dated Wednesday the 3th day of October Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. R. Ramanujam, Member(A)
&
Hon'ble Mr. P. Madhavan, Member (J)**

P.R. Subrahmanian
No. 13, Arjun Nagar
Kolathur
Chennai – 600 009.

.. Applicant

By Advocate **M/s. R. Pandian**

Vs.

1. Union of India rep. by
The General Manager
Integral Coach Factory
Chennai – 600 038.
2. The Chief Personnel Officer
Integral Coach Factory
Chennai – 600 038.
3. The Principle Chief Mechanical Engineer
Integral Coach Factory
Chennai – 600 038.

.. Respondents

By Advocate **Mr. A. Abdul Ajees**

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA seeking the following reliefs:-

“To call for all the records relating to the rejection of the request for withdrawal of voluntary retirement notice submitted by the applicant and to quash the impugned order in No. PB/GG/26/VR/RESIGN/VOL.II dated 28.04.2018 passed by the General Manager, Integral Coach Factory (1st respondent), consequently:-

i. To direct the 1st respondent to re-instate the applicant in the post he held (Senior Mechanical Engineer) as on the date of the termination of his service (on Voluntary Retirement) i.e., on 06.01.2018 or in any other equivalent post;

ii. to direct the respondents to treat the period from 07.01.2018 until the date of such re-instatement as duty with all consequential benefits; and to pass such other order/orders”

2. It is submitted that the applicant was a Senior Mechanical Engineer (Group-B, Gazetted) with the respondent factory and had put in nearly 31 years of service. Due to certain family circumstances he had submitted an application for voluntary retirement w.e.f. 06.01.2018 by a letter dated 06.10.2017. His request was accepted by the competent authority on 28.10.2017. Subsequently, the applicant by a letter dated 02.12.2017 sought to withdraw the notice of voluntary retirement which was well within the notice period of three months. However, the respondents rejected his request and retired him w.e.f. 06.01.2018.

3. Aggrieved by the rejection, the applicant filed OA 129/2018 which was

disposed of by this Tribunal by an order dated 07.03.2018 allowing him to make a comprehensive representation within a period of two weeks and directing the respondents to pass a reasoned and speaking order thereafter. Annexure A12 impugned order dated 28.04.2018 came to be passed in pursuance thereof aggrieved by which the applicant has filed this OA.

4. Learned counsel for the applicant would submit that under the rules the applicant was entitled to withdraw his notice for voluntary retirement during the notice period. He had sought to withdraw his notice for voluntary retirement due to changes in his domestic circumstances. It is not for the respondents to comment on the validity of the grounds as long as he had sought withdrawal of the notice for voluntary retirement within the notice period. It cannot be presumed that the applicant had filed the notice for voluntary retirement only to create unnecessary work for the respondents and to complicate their administrative processes. The applicant had satisfactorily explained his domestic situation which led to his seeking withdrawal and, therefore, the decision of the respondents to reject his request was arbitrary and capricious. Accordingly the OA is liable to be allowed, it is contended.

5. Learned counsel for the respondents would, however, submit that the applicant was employed on a Group B post and due to his sudden notice for voluntary retirement, the employer had to make alternative arrangements. Sudden withdrawal of the notice would inevitably upset the HR plans of the employer and, therefore, it was a sufficient ground for the respondents to reject the notice of the applicant. He would also oppose any relief to the applicant in terms of

regularisation of the period of absence from the date of voluntary retirement till his reinstatement, should the OA be allowed.

6. We have carefully considered the facts of the case. It is not in dispute that the applicant had submitted his request for voluntary retirement by a letter dated 06.10.2017 to take effect from 06.01.2018 due to domestic circumstances. It is also not disputed that before the retirement took effect, the applicant had given a notice dated 02.12.2017 to withdraw the request. The applicant in his letter dated 12.12.2017 in response to a query from the respondents had stated that the applicant was facing some serious domestic problems connected with the rehabilitation of his eldest brother's son who was suffering from depression which had since been brought under control with proper counselling. Also, the son of his sister was to be rehabilitated since there was no one to take care of him at the age of 50 and he was also not maintaining good health. This problem had also been resolved and, therefore, he was seeking withdrawal of the voluntary retirement.

7. A careful perusal of the impugned order reveals that the applicant's request had been rejected on the ground that the administration had to make a lot of efforts in processing a request for voluntary retirement of the employee. Voluntary retirement meant that the service of an employee were terminated altogether and the administration had to make alternative arrangements, more so in the case of gazetted officers. Hence, employees, especially gazetted officers were expected to take all matters into consideration before submitting an application for voluntary retirement. Once the request for voluntary retirement was submitted, the employee had to give proper and convincing reasons for withdrawal of the

voluntary retirement request. However, in the applicant's case it was noticed that he had not given any reasons for withdrawal and when he was asked to give reasons, the reasons submitted by him were found to be lame excuses. The reasons submitted were an afterthought and, therefore, his withdrawal of the notice was rejected by communication dated 20.12.2017.

8. It would be clear from the above that the respondents had taken a view that the applicant had submitted a notice of voluntary retirement in a perfunctory and thoughtless manner, unnecessarily complicating the HR management for them and reducing it to an exercise in futility by withdrawing the notice. However, we are inclined to agree with the learned counsel for the applicant that once a rule permits withdrawal of notice before the notice took effect i.e. during the period of notice, the respondents could not look into the adequacy of grounds cited by the applicant for changing his mind. For if the respondents are allowed to sit in judgement over the change in family circumstances of an employee and reject the withdrawal of notice, the provision in the rule for withdrawal of notice would be meaningless.

9. We are not persuaded that the applicant had thoughtlessly submitted his notice for voluntary retirement and had sought to withdraw the same as an afterthought. The applicant had acted well within the rule which permitted him to withdraw the notice. To deny him his right to withdraw the notice within the notice period on the ground that it could only be done with the approval of the competent authority would be to deny him his rights under the rules. Any refusal of approval by the competent authority had to be well reasoned.

10. The impugned order does not reveal what complications had arisen to the

respondents in HR management between 28.10.2017 when the applicant's notice for voluntary retirement had been accepted by the respondent and 02.12.2017 when the applicant submitted his notice for withdrawal. It is not clear if the post that was to be vacated by the applicant with effect from 06.01.2018 had already been filled in the meantime and if so, how such an action would be possible even before the vacancy arose. Even a temporary arrangement to grant additional charge to another officer would only have been made in the month of January 2018 immediately before the date of applicant's retirement. Accordingly we are of the view that the grounds of rejection of the applicant's request for withdrawal of notice are vague and could not be sustained.

11. In view of the above we have no hesitation to set aside the impugned order dt.28.04.2018 and direct the respondents to reinstate the applicant into service w.e.f. 06.01.2018. The period of absence during the interregnum shall be treated as time spent on duty. OA is allowed. No costs.

(P. Madhavan)
Member (J)
AS

03.10.2018

(R.Ramanujam)
Member(A)