

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**CRICUIT SITTING:BILASPUR**

**Original Application No.203/01153/2016**

Bilaspur, this Wednesday, the 09<sup>th</sup> day of January, 2019

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

R.R. Khare S/o Binay Kumar Khare Aged about 42 years presently working as Chief Reservation Supervisor/SECR/BSP r/o 14/15 Balajipuram, Near Vasant Vihar Bilaspur Chhattisgarh 495001

**-Applicant**

(By Advocate –**Shri A.V. Shridhar**)

**V e r s u s**

1. Union of India, Through the General Manager, South East Central Railway Bilaspur Zone, Head Quarter Office PS Torwa Bilaspur District Bilaspur Chhattisgarh 495004
2. Senior Divisional Commercial Manager, South East Central Railway, Bilaspur Chhattisgarh 495004
3. The Chief Personnel Officer, South East Central Railway Headquarter Office Personnel Department, PS Torwa Bilaspur District Bilaspur Chhattisgarh 495004
4. Senior Divisional Personnel Officer, South East Central Railway Headquarter Office Personnel Department, Bilaspur Chhattisgarh 495004
5. The Assistant Personnel Officer, South East Central Railway Headquarter Office Personnel Department Bilaspur Chhattisgarh 495004

**- Respondents**

(By Advocate –**Shri Vivek Verma**)

**O R D E R (Oral)**  
**By Navin Tandon, AM:-**

The applicant is aggrieved that the application for voluntary retirement has been rejected vide order dated 30.05.2016 (Annexure A/1).

**2.** The applicant in this Original Application has prayed for the following reliefs:-

*“8.1 That the learned Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicant.*

*8.2 That, the learned Tribunal may kindly be pleased to quash the order No.E/SB/Bill-ii/Comml./RRK/02-324 dated 30.05.2016 (Annexure A/1).*

*8.3 That, the Hon’ble Tribunal may kindly be pleased to hold that the applicant stood voluntarily retired from 20.06.2016 (on completion of three months notice period) in absence of orders to the contrary by the competent authority.*

*8.4 Cost of the Original Application be awarded.*

*8.5 Any other relief which the learned Tribunal deems fit and proper may be awarded.”*

**3.** The applicant was working as Chief Reservation Supervisor, Uslapur and he submitted his application for voluntary retirement on 21.03.2016 (Annexure A/2 Page 13).

**4.** The respondents vide Annexure A/1 have rejected the voluntary retirement with the following remarks:-

*“Your application dated 21/03/2016 requesting for Voluntary Retirement has been examined. On verification of your service and other relevant documents, it is observed that you are under gone punishment as well as unauthorized absent from your duty w.e.f.11/08/2013. Hence your voluntary retirement application can not be considered at present due to non-fulfillment of the terms and conditions as per Estt. Srl.No.36/96.”*

5. Learned counsel for the applicant submits that the applicant has not attended duty after completion of three months' notice period w.e.f.21.03.2016.
6. Learned counsel for the applicant has brought out the following facts regarding the applicant as on 21.03.2016, which has been agreed to by the learned counsel for the respondents:-

- (i) The applicant was not under suspension.
- (ii) No charge sheet has been issued and no disciplinary proceedings are pending.
- (iii) No judicial proceedings on charges which amounts to grave misconduct is pending.

7. Learned counsel for the applicant brought our attention to the order dated 27.02.2014 (Annexure A/4) wherein DoPT have issued guidelines to the respondents regarding withholding of voluntary retirement:-

*“(i) if the Government servant is under suspension ; or  
(ii) if a charge sheet has been issued and the disciplinary proceedings are pending, or  
(iii) if judicial proceedings on charges which may amount to grave misconduct, are pending.”*

8. Learned counsel for the applicant drew our attention to para 11.4 of the Establishment Rule 36/96 (Annexure A/3) which reads as under:-

*“11.4 A Railway servant giving notice of voluntary retirement the acceptance of which requires appointing authority’s approval, may presume acceptance of the notice and the retirement shall be effective in terms of the notice, unless the Competent authority issues an order to the contrary before the expiry of the period of notice.”*

9. After having heard the learned counsel of both sides and perusing the pleadings we find that in the instant case the applicant had submitted his application for voluntary retirement on 21.03.2016 (Annexure A-2) requesting the respondent-railway to accept the same with immediate effect. The respondents vide impugned order dated 30.05.2016 (Annexure A-1) rejected the said application dated 21.3.2016, stating that “On verification of your service record and other relevant documents, it is observed that you are under gone punishment as well as unauthorized absent from your duty w.e.f. 11/08/2013. Hence your voluntary retirement application cannot be considered at present due to non-fulfillment of the terms and conditions as per Estt.Srl.No.36/96”. The respondents in their preliminary submissions have simply submitted that the applicant’s “application for voluntary retirement has not been accepted, because an enquiry & charge sheet are still

pending against him". However, we find that the respondents have failed to produce any material to substantiate their stand that a departmental enquiry was actually pending against the applicant after serving him a charge sheet on the applicant. Since the applicant was neither placed under suspension, nor any disciplinary/Judicial proceeding was pending against him, the impugned order dated 30.05.2016 passed by the respondents is not sustainable in the eyes of law.

**10.** Accordingly, we have considered and allow this O.A. The order dated 30.05.2016 is quashed and set aside. Respondents are directed to treat the applicant as having voluntarily retired from 20.06.2016 (on completion of three months' notice).

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

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