

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2586/2018

New Delhi this the 6th day of September, 2019.

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Jitendra Prakash Srivastava,
Aged 58 years,
S/o Late Shri S.N. Lal Srivastava,
Assistant Director (Administration),
National Rail Museum, New Delhi.

Resident of: 196-F, Garud Apartments,
Pocket-4, Phase-I, Mayur Vihar,
Delhi-110091.

.... Applicant

(through Mr. Prateek Tushar Mohanty)

Versus

Union of India
Through the Chairman,
Railway Board, Rail Bhawan,
New Delhi-110001.

.... Respondent

(through Mr. Shailender Tiwari)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy, Chairman :

The applicant was a Senior Section Engineer (SSE) in the Northern Railway. On 22.05.2014, he came on deputation in National Rail Museum under the Ministry of Railways as Assistant Director (Administration), National Rail Museum. On 24.04.2017, he addressed a letter to the Executive Director (Heritage), Railway Board with a request to permit him to take

VRS on health grounds. Thereafter, he addressed a letter dated 19.05.2017 on the same issue. On 11.05.2018, the respondents replied stating that on completion of his term of deputation, the applicant has been relieved w.e.f. 31.05.2017; with a direction to report to the parent cadre and that his application for VRS was not accepted by the Northern Railway. A reference was also made to letter dated 20.02.2018, wherein the non acceptance of VRS was conveyed to him.

2. This OA is field challenging letter dated 11.05.2018 and 20.02.2018, and for a declaration to the effect that the applicant is deemed to have retired voluntarily from the Government Service w.e.f. 04.07.2017. The applicants contends that though the application for VRS was addressed to the Executive Director (Heritage), it was required to be acted upon by the Northern Railway and since no steps have been taken thereon, it is deemed to have been accepted, by lapse of time.

3. We heard Mr. Prateek Tushar Mohanty, learned counsel for the applicant and Mr. Shailender Tiwari, learned counsel for the respondents.

4. It is not in dispute that the applicant was a permanent employee of Lucknow Division of Northern Railway and was working as SSE. He joined as Assistant Director in the Northern Railway on 22.05.2014 on deputation, for a period of three

years. On 24.04.2017, he addressed a letter to Executive Director (Heritage) as under:-

“To,

The Executive Director
(Heritage),
Railway Board,
New Delhi.

Dt 24.4.2017.

Sub : Voluntary Retirement of Shri J. P. Srivastava/DDA/NRM

I have been working as Asstt. Director/NRM/NDLS since 21.05.2014. Now because of my health problem it is not possible to continue my duty.

Kindly permit me to take V.R.S. from this post w.e.f. 31.06.2017 and arrange to settle the retirement benefit to me as service record and C.R. are available here at Rly Board. It is also requested that the mandatory notice period of three months for V.R.S. may be waived off.

Thanking you,

Your's faithfully.

Sd/-
18.04.2014

(J.P. Srivastava)
Asstt Director”

5. The request was for VRS. Naturally, it was required to be addressed to Appointing Authority. Added to that, his deputation in the National Rail Museum expired on 31.05.2017 and he was required to report to the Northern Railway. Across the bar, it is stated that the applicant did not report to the parent department at all. The result is that the Railway Museum i.e. the Railway Board cannot take any steps on the application of the VRS, not being the Appointment Authority of the applicant. The request was not made to the Appointing Authority i.e. the Northern Railway.

6. The applicant was addressed a letter dated 11.05.2018, which reads as under:-

“No. 2017/Heritage/Staff

New Delhi, Dated 11-05-2018

Sh. J. P. Srivastava
ADA/NRM/NDLS
196f, Garud Apartment,
Pocket-IV, Phase-1,
Mayur Vihar, Delhi – 91.

Sub:- Request from Voluntary Retirement from service (VRS of Sh J. P. Srivastava, Ex-Assistant Director, National Rail Museum, New Delhi.

Ref.: i) Board's letter of even number dated 20.02.2018.

ii) Your letter addressed to ED/Heritage dated 07.05.18.

With reference to your letter referred above, it is informed that on completion of your deputation tenure, you were relieved from Railway Board w.e.f. 31.05.2017 and with direction to report to your parent cadre i.e. Northern Railway (Copy of Order No. ERB-I/2011/3/3 dated 30.05.2017 enclosed).

As regards your application for Voluntarily Retirement from service w.e.f. 04-07-2017, the same was forwarded to GM(Personnel)/Northern Railway on 02-06-17 for further necessary action.

Your application for Voluntarily Retirement was not accepted by Northern Railway. The same was intimated to you vide this office letter of even number dated 20.02.2018 (copy enclosed).

DA: As above. (Shakuntla Gupta)
Joint Director/heritage

Copy to: i) General Manager (P), Northern Railway, Baroda House, New Delhi (Ref.: F. No. 755-E/176/Divn/Misc./EIIC (Loose)

ii) US/E-III (w.r.t. Letter No. ERB-I/2011/3/3 dt. 30.5.2017”

7. Except that the various developments have been mentioned, the letter by itself did not determine the rights of the applicant in any manner. So is the case with the letter dated 20.02.2018, which reads as under:-

“No. 2017/Heritage/Staff

New Delhi, Dated 20.02.2018

J P Srivastava

196F, Garud Apartment

Pocket-IV, Phase-I,

Mayor Vihar, Delhi – 91.

Sub: Request for VRS

Ref: GM(P)/NR letter no 755E/176/Divn/Misc/EIIC(loose) dated 29.01.2018.

Above referred letter conveying non acceptance of your VRS application and repoting to LKO Division is enclosed.

DA/As above

(Subrata Nath)

Executive Director/Heritage

Telefax:011-23385330

Email: subrata.nath@nic.in”

8. For the reasons, best known to the applicant neither he has undertaken any correspondence with the Northern Railway, nor did he implead them in this OA. Added to that, it is brought to our notice that disciplinary proceedings were initiated against the applicant by the Northern Railway and that the applicant has filed OA No. 3536/2018 in relation thereto, before this Tribunal.

9. Under these circumstances, we do not find any merit in the OA. Accordingly the same is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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