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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI**

**O.A.No.210/00679/2018**

**Dated this Monday the 27th day of May, 2019.**

**Coram: Dr. Bhagwan Sahai, Member (Administrative).**

Kisan Shrawan Sable  
Aged 54 Years,  
Occ: Service,  
R/o. At Post Khadket Tq.  
Igatpuri,  
District: Nasik-422402.

**Working as:-**

Senior Section Engineer (Kalyan)E,  
(P/Way), Central Railway,  
Mumbai Division,  
Kalyan 421 301.

...Applicant.

**( By Advocate Shri Nigel Qurashi ).**

**Versus**

1. Union of India  
(Through)  
Divisional Railway Manager,  
Central Railway,  
Mumbai Division,  
CSTM, Mumbai-400 001.
2. Senior Divisional Personnel Officer  
Central Railway,  
Mumbai Division,  
CSTM, Mumbai-400 001.
3. ADEN(Track), Kalyan  
Central Railway,  
Mumbai Division,  
Kalyan 421 301.

... Respondents.

**( By Advocate Shri S. Ravi ).**

**Order reserved on: 23.04.2019**  
**Order delivered on: 27.05.2019**

**O R D E R****Per : Dr. Bhagwan Sahai, Member (A)**

1. Shri Kisan Shrawan Sable, Track Maintainer working under SSE (WKS) Kalyan has filed this OA on 19.11.2018 seeking quashing and setting aside of office order dated 08.10.2018 issued by ADEN (Track) Kalyan, Central Railway rejecting his request for Voluntary Retirement and Compassionate Appointment to his son, another order of the same date about accepting his voluntary retirement but without compassionate appointment to his son, and directions to the respondent no.3 to accept his VRS and request for appointment to his son on compassionate ground as per Railway Board Circular No.RBE 78/2006, dated 14.06.2006 along with providing cost of this application.

**2. Summarized facts:-**

2(a). The applicant has stated that he was working as Track Maintainer under Senior Section Engineer (Permanent Way), East Kalyan. He was appointed initially as casual labour and brought on monthly rate status on 14.03.1985. Subsequently, he was regularized as track maintainer on 23.07.1996 under SEE (P/Way) Kalyan (E), Central Railway,

Mumbai Division and thereafter granted Financial Up-gradation under MACP on 19.11.2010.

**2(b).** When on duty on 14.08.2017, he got injured while maintaining the track on being hit by a running train after which he was hospitalized and underwent treatment at Divisional Railway Hospital, Kalyan and Zonal Railway Hospital, Byculla from 14.08.2017 upto 06.01.2018. He claims that Chief Medical Superintendent, Central Railway, Divisional Hospital, Kalyan issued a certificate on 06.01.2018, medically partially de-categorizing him in medical category B1-B2 and below which rendered him unfit for duty as track maintainer. Thereafter, a three-member screening committee met on 23.01.2018 and declared him unfit for the post of track maintainer and recommended that he should be given an alternative job.

**2(c).** Based thereon he was offered alternative employment of Mason-III in engineering department by office order no.79/2018 dated 11.04.2018 (Annex A-6). Because of this, the applicant sought voluntary retirement and compassionate appointment for his son by his application on 16.04.2018 (Annex A-7) as per provisions of Railway Board Circular No.RBE 78/2006

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dated 14.06.2006. He also submitted a reminder on 30.05.2018 to respondent no.3 (Annex A-9).

**2(d).** On 08.10.2018 the respondent no.3 sent a reply to the applicant stating that against his VRS, his son is not eligible for compassionate appointment and thereafter rejected his VRS application, advising for his relief. By another order of the same date i.e. 08.10.2018, the applicant was informed that his application for VRS dated 13.07.2018 had been verified and he was eligible for VRS after completing three months i.e. from 14.10.2018.

**2(e).** The respondent no.3 vide that order also directed SEE (P Way) Kalyan to ask the applicant whether he was still in favour of VRS, although his son would not get the benefit of appointment on compassionate grounds by explaining the details to him in Hindi and Marathi and to send his willingness for his VRS without getting benefit of appointment to his son on compassionate ground in Railways.

**2(f).** On 12.10.2018 the applicant again requested the respondent no.3 that as per provisions of (Para II) of the Railway Board Circular no.RBE

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78/2006 dated 14.06.2006, he should be granted VRS under (Para IV) of the Railway Board Circular and his request application for VRS dated 13.07.2018 should be reconsidered. Thereafter, this OA has been filed.

**3. Contentions of the parties:-**

The applicant and his counsel have contended that:-

**3(a).** the impugned orders of the respondents are devoid of merits as first his application for VRS was rejected along with appointment of his son on compassionate grounds and thereafter his VRS was also accepted but again by denying the benefit of compassionate appointment to his son. But he is entitled for acceptance of VRS and appointment of his son on compassionate ground as per provisions of RBE 78/2006 dated 14.06.2006. By order dated 08.10.2018, the respondents have forced him to accept the alternative post of Mason-III without acting on his already accepted request of voluntary retirement. Hence the OA be allowed.

The respondents have contended that:-

**3(b).** after his medical de-categorization the screening committee in its meeting found him fit

for alternative post of Mason-III and this appointment was granted to him vide letter dated 11.04.2018. Since his case was not covered under partial de-categorization as provided under RBE Circular No. 78/2006 dated 14.02.2006, his request for voluntary retirement was rejected by the Competent Authority. In his second application for VRS dated 30.05.2018 he did not request for appointment of his son and that is why he was apprised of the situation that he would be eligible for VRS but his son would not get appointment on Compassionate grounds. Since he has not indicated specific date for his voluntary retirement, his request could not be accepted. Subsequently, the applicant himself has joined on the alternative post of Mason-III. Therefore, the applicant has no legal right to file this OA. Hence it should be dismissed.

**3(c).** His claim that he was declared partially medically de-categorize is not correct. Also, in the reply on 08.10.2018, the respondents had nowhere mentioned that his VRS had been accepted. It was only stated that he would be eligible for VRS from 14.10.2018. Therefore this OA should be dismissed.

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**4. Analysis and Conclusions:-**

**4(a).** I have perused the OA memo, reply of the respondents filed on 14.02.2019, and considered the arguments advanced by both the parties on 23.04.2019 when their counsel remained present and were heard.

**4(b).** On careful consideration of all these, I find that the submissions of respondents are correct. The applicant seems to be confused as to what he wanted- whether alternative employment provided / offered by the respondents or VRS. He submitted a conditional application for VRS with provision of employment to his son on compassionate grounds. He did not mention therein any date for such voluntary retirement. The claim of the applicant that he had been medically partially de-categorized is not correct. It was based on incorrect understanding of the stipulations of the de-categorization certificate and railway board circular no.RBE 78/2006 dated 14.02.2006. He was actually declared unfit in medical category B one and B two.

Since during the pendency of this OA, the applicant himself has accepted the alternative

posting of Mason-III offered by the respondents and has joined on it on 18.12.2018, his contentions in the OA have become infructuous. Therefore, the OA has no merits and it deserves dismissal.

5. Decision:-

The OA is dismissed. The parties to bear their own costs.

(Dr. Bhagwan Sahai)  
Member (A)

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JD  
07/6/19