

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/01050/2018

Date of Order : 25-10-2019

Between :

D. Madhusudhana Rao S/o D. Krishnaiah,
Group 'C', Aged about 52 years,
Occ. Senior Section Engineer, Railway
Electrification, Guntur, Andhra Pradesh.Applicant

AND

1. The Union of India Rep by the Secretary,
Railway Board, Sanchalan Bhavan,
New Delhi.
2. South Central Railway Rep by its General Manager,
Rail Nilayam, Secunderabad.
3. The Senior Personnel Officer,
Railway Electrification, South Central Railway,
Secunderabad.
4. Chief Project Director,
Railway Electrification, South Central Railway,
Secunderabad.
5. Deputy Chief Engineer,
Railway Electrification, Secunderabad. ...Respondents

Counsel for the Applicant: Mr. Siva

Counsel for the Respondents : Mr. V. Vinod Kumar, SC for Rlys

CORAM :

THE HON'BLE MRS.NAINI JAYASEELAN, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mrs.Naini Jayaseelan , Administrative Member)

Heard Mr. Siva, learned counsel for the applicant and Mr.Sambasiva Rao representing Mr. V. Vinod Kumar, learned Standing Counsel for Respondent Railways.

2. The present Original Application has been filed with a prayer to relieve the applicant on completion of three months notice period given by the applicant for voluntary retirement on 29.05.2017. Counsel for the applicant states that the present OA has been filed on 26.10.2018 and the notice for voluntary retirement period after the three months notice expired on 29.08.2017. Therefore the applicant is deemed to have retired on the expiry of three months period on 25.08.2017.

3. The learned Standing Counsel for Respondent Railways states that since the applicant was on deputation, the letter dated 29.05.2017 was forwarded to the parent division i.e. BZA Division with a request to post one SSE/Works to repatriate the applicant. Also the letter indicated that the Headquarters Office, Personnel Department, Secunderabad, the applicant had applied for voluntary retirement on 29.05.2017 due to domestic and personal problems but was not accepted by CPD/RE/SC. However, there is no record to show that his request for voluntary retirement was not accepted during the three months notice period.

4. The letter dated 12.03.2018 further states that, 'the concerned employee may be advised to submit his fresh application for voluntary retirement through CPD/RE since the post of SSE is Hqrs controlled post. The Voluntary retirement application submitted by the employee may be forwarded to this Railway to take further action'.

5. However, the fact of the matter that there was no communication between the Department and the applicant during the three months notice period. Reliance was placed by the learned counsel for the applicant on Rule-67(2) of Railway Services (Pension) Rules, 1993, which reads as under :

"(2) The notice of voluntary retirement given under sub-rule(1) shall require acceptance by the appointing authority :

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period."

The Respondents counsel states that a vigilance case has been registered against him on 04.07.2019. However, this is much after the three months period the application for voluntary retirement. The Respondents Department is well within its right to continue / discontinue the vigilance proceedings under Rule-9(2) of Railway Services (Pension) Rules, 1993. Learned Standing Counsel for the Respondents also argues that this is a Division Bench matter as per Appendix – VII at item No.8 i.e "Deputation/Repatriation". But item-12, with effect from 08.09.2016 relates to "cases relating to Voluntary Retirement/Resignation" is listed under Single Bench cases.

6. In view of the above and in view of Rule-67(2) of Railway Services (Pension) Rules, 1993, the applicant deemed to have retired on 29.08.2017 i.e. on expiry of three months notice period. The Respondents department is however not precluded from proceeding against the applicant as mentioned above under Rule-9(2) of said Rules.

7. O.A disposed of accordingly. No order as to costs.

(NAINI JAYASEELAN)
ADMINISTRATIVE MEMBER

Dated : 25th October, 2019.
Dictated in Open Court.

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