



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.30780 of 2015

G.Ravikumar
(Retired Station Manager)
No.11, II Street, Kamaraj Nagar,
Virupakshipuram, Vellore - 632 002.

... Petitioner

-vs-

1. Union of India
Rep.by the General Manager,
Southern Railway,
Park Town,
Chennai - 600 003.
2. The Divisional Railway Manger,
Tiruchirappalli Division Southern Railway,
Thiruchirappalli.
3. The Sr.Divisional Operations Manager,
Tiruchirappalli division,
Southern Railway,
Thiruchirappalli.
4. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or order or a direction in the nature of a Writ calling for the records relating to the order of the 4th respondent made in O.A.N0.310/00471 of 2014 dated 09.06.2015, to quash the same and to consequently direct the respondents 1 to 3 to arrange to pay all the retirements due to petitioner with the interest for the delayed payment as admissible in the rules.

For Petitioner : M/s.N.R.Jasmine Padma



For R1 to R3 : M/s.A.Sri Jayanthi
for R1 to R3

O R D E R

S.VAIDYANATHAN, J.
&
N.MALA, J.

This writ petition has been filed to call for the records relating to the order of the 4th respondent made in O.A.NO.310/00471 of 2014 dated 09.06.2015, quash the same and to consequently direct the respondents 1 to 3 to arrange to pay all the retirements due to petitioner with the interest for the delayed payment as admissible in the rules.

2. The case of the petitioner is that he joined as Assistant Station Master on 03.08.1981 in Tiruchirappalli Division of Southern Railway and continued to work in the same category and reached the pinnacle of his career as Station Manager. After rendering 32 years of unblemished service, he has submitted a request seeking voluntary retirement from service on 12.09.2013 under Rule 66 of Railway Services (Pension) Rules 1993, with a rider that he would not claim any job for his children, would not withdraw the request for voluntary retirement and would not seek re-employment in Railways. Meanwhile, he was served with a charge sheet dated 26.08.2013 served on 05.09.2013 for a major penalty. The respondents, instead of arranging the settlement dues on completion of the notice period, pursuant to the request for voluntary retirement, preferred to continue the disciplinary proceedings and hence the petitioner has submitted his request for the settlement of dues quoting the rules in vogue and since no steps were taken, he filed O.A.No.471 of 2013 and the Tribunal in and by order dated 09.06.2015, dismissed the Original Application, without adverting to the legal grounds raised therein, against which, the petitioner is before this Court.

3. The learned counsel for the respondents 1 to 3 submitted that the petitioner, while working as Station Master Grade I at Kannamangalam Railway Station had involved himself in Private Business Activities, which is against the Railway Service Rules. On information, an investigation was conducted by Anti corruption Branch of Central Bureau of Investigation, Chennai for commission of offences of conspiracy and cheating the Government of India in the matter relating to the skills development under modular employable skills and skill development initiative scheme (SDIS), implemented by the Director General of Employment and Training by creating false records and making payment on the forged and fabricated bills



submitted by the private persons / firms and caused a wrongful loss to the Government of India to the tune of Rs.60,00,000/- during the year 2009-2010. It was detected that the petitioner was doing a private business under the name and style of Aswin Technologies, Vellore and having financial transaction / business transaction with M/s.Edserv Soft Systems Ltd., Chennai and conducted classes under the MES, SDLS scheme introduced by the Circular of the DGET, Ministry of Labour, Government of India New Delhi. Various documents have been seized by the investigating CBI Officer and statements from various persons have been recorded. Hence for the commissions and omissions of the petitioner who had contravened the provisions of Rule No.3 (1) (i) (iii) and 15(1) of Railway Services (Conduct) Rules, 1966, action was taken against him under Railway Servant (D&A) Rules, 1968 and a Major penalty charge sheet was served on him and acknowledged by him on 05.09.2013. There is no gross violation of Rule provision contained in Rule No.66 of the Railway Services (Pension) Rules 1993 as alleged by the petitioner. The Tribunal rightly rejected the claim of the petitioner, holding that the charge against the petitioner is of grave in nature and dismissed the Original Application. Hence, there is no need for interference by this Court and prayed for dismissal of the appeal.

4. Heard both sides.

5. The petitioner submitted an application dated 12.09.2013 for Voluntary Retirement from Service under Rule 66 of Railway Services (Pension) Rules 1993 and though Disciplinary Proceedings were initiated, petitioner was not suspended. Request of the petitioner dated 12.09.2013 was received on 16.09.2013 and the main contention of the learned counsel for the respondents 1 to 3 was that when an application for VRS has been given well in advance three months before the initial date of retirement and the Appropriate Authority can withhold the permission of a railway servant under suspension, who seeks to retire under this clause. According to the petitioner, no decision was taken within a period of three months and that the petitioner is deemed to have retired on VRS and that no action could be taken against the petitioner after the receipt of the application, more so, on expiry of three months, namely, 16.09.2013. In reply, the learned counsel for the respondents 1 to 3 contended that the provision cannot be read in isolation and when even though the amendment to the Central Civil Services (Pension) Rules, 2021 was notified on 20.12.2021 and that the provision namely provisions of Rule 3(1) (i) (iii) & 15(1) of Railway Services (Conduct) Rules, 1966 was substituted in the place of existing one, it does not preclude the Authority from rejecting the application, especially when the charges against the petitioner are so serious in nature and the charge levelled



against him is extracted below:-

Shri.G.Ravikumar, while working as Station Master, Kannamangalam had committed serious misconduct and failed to show absolute integrity and acted in a manner unbecoming of a Railway Servant, in that,

"While being employed in Southern Railway as a Station Master, he was running a private business in the name of Aswin Technologies, Vellore as a Franchisee of M/s.EDSERVE SOFT SYSTEMS LTD, CHENNAI and entered into a franchise agreement with M/s.EDSERVE SOFT SYSTEMS LTD, Chennai during the year 2008".

Thus, he had contravened Rule.3.1 (i) and (iii) 15 (1) of Railway services (conduct) Rules, 1966.

6. When the Rules contemplate the power of withdrawal to the employee, within a period of 90 days from the date of submitting the application for VRS, similarly the respondents 1 to 3 have got powers to reject the VRS application within the period of 90 days. In the present case on hand, even though it has been contended that no plea has been taken with regard to rejection, a reading of Paragraph No.19 of the reply statement of the respondents 1 to 3 before the Tribunal would make it very clear that VRS application submitted was rejected by communication dated 13.12.2013 well within the period of three months. Hence, we are of the view that the rejection of application in not permitting the petitioner to go on VRS is perfectly valid and the order of the Tribunal does not call for any interference by this Court the same is confirmed. That apart, the petitioner has also not challenged the order dated 13.12.2013.

7. With the above observation, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The General Manager,
Union of India
Southern Railway,
Park Town, Chennai - 600 003.



2. The Divisional Railway Manger,
Tiruchirappalli Division.

3. The Sr.Divisional Operations Manager,
Tiruchirappalli division, Southern Railway,
Thiruchirappalli.

4. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.29535

+1cc to M/s.A.Sri Jayanthi , Advocate, S.R.No.29717

W.P.No.30780 of 2015

RR(CO)
CT/01/07/2022