

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2318/97

New Delhi this the 2nd day of June, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Shri Jai Bhagwan,
S/o Shri Khazan Singh,
R/o Village & Post Duhai,
Distt. Ghaziabad.

...Applicant

(By Advocate M/s. Shekhar & Associates - though none
appeared)

-Versus-

1. The Commissioner of Police,
Delhi Police,
New Delhi.
2. Shri S.K. Jain,
Deputy Commissioner of Police,
North West Zone,
Delhi.

...Respondents

(By Advocate Shri Ajay Gupta)

O R D E R (ORAL)

By Mrs. Shanta Shastry, Member (Admnv):

The applicant has impugned the order of the Commissioner of Delhi Police dated 31.8.87, whereby the applicant has been compulsorily retired under clause (j)(ii) of Rule 56 of the Fundamental Rules and Rule 48 of the CCS (Pension) Rules.

2. The applicant had joined the Delhi Police on 20.8.57 as a Constable. After promotions he became a Sub Inspector in 1987. While he was functioning as a Sub Inspector on 31.8.89 the Deputy Commissioner of Police passed the impugned order compulsorily retiring the applicant. It is clearly stated in that order that respondent No.2 is of the opinion in public interest to retire the applicant compulsorily. Aggrieved by the said order the applicant made an appeal before the Commissioner of Police, i.e., first respondent. The order of compulsory

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retirement was upheld by respondent No.1, vide his orders dated 16.6.97, giving detailed reasons and stating that the applicant has out-lived his utility and is unfit to be retained in service. Thus, his appeal was rejected. The applicant has, therefore, preferred the present OA to quash and set aside the impugned orders and to direct the respondents to reinstate/continue him in the services of the respondents with full salary along with all benefits. In the same prayer, the applicant has also sought the pension and other benefits commensurate with the status of the applicant to which he would have been entitled if he had retired in the usual manner.

3. It is the contention of the applicant that he had performed well throughout his service period from 1956-87 and had received several commendations certificates. Though he was awarded censure, he was never communicated any adverse remarks so as to enable him to improve his performance. The applicant further states that no complaints have been kept pending for a long period by him, though he had occasionally delayed solving and disposing of some complaints and work assigned to him due to pressure of work. This cannot be a good ground for compulsory retirement. According to him all the three censures were issued to him without his knowledge during the short span of four months. The applicant urges that the respondents have not followed the guidelines issued by the Ministry of Home Affairs, as contained in Appendix X of the CCS (Pension) Rules in regard to pre-mature retirement of Government servants, envisaging review at least four times when the age of 50/55 or completing 30 years of service. According to

him the order of compulsory retirement is not based on any relevant material, as found in the A.C.R. when the applicant attained the age of 50 years.

4. The learned counsel for the respondents submits that the applicant has been retired compulsorily under Rule 56 (j)(ii), after constituting a proper Screening Committee to review the case of compulsory retirement of the applicant. Also rule 48 of the CCS (Pension) Rules, 1972 has been taken into consideration. It is after following the due procedure that the respondents decided to retire the applicant compulsorily, in public interest. The learned counsel for the respondents submits that the applicant had received five censures and his record of the year 1988-89 was found to be bad. Further, there were several complaints against the applicant, including complaints of corruption. He was censured for delaying the files unnecessarily and for not registering the cases under proper Sections of law. On many occasions he was given chance to improve himself and to take more interest in the cases assigned to him but he failed miserably. His reputation in the public during his posting in the Police Station, Narela was found very poor. His performance was found to be below average and, therefore, it was felt that it was not proper to retain him any more in the Police Department.

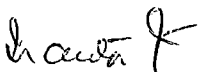
5. None is present on behalf of the applicant either in person or through counsel. We have heard the learned counsel for the respondents. Since this matter pertains to 1997 we have proceeded to dispose of this case on the basis of the available pleadings with the help of the learned counsel for the respondents.

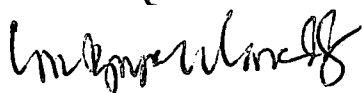
6. The applicant has been retired under Rule 56 (j) (ii) of the Fundamental Rules. According to this rule, notwithstanding any thing contained in the rule the appropriate authority shall, if it is of the opinion that it is in public interest to do so, have the absolute right to retire any Government servant by giving notice of not less than three months in writing or three months pay and allowances in lieu of such notice, if he is in Group 'A' or Group 'B' service and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years. Thus the respondents have the right to retire any Government servant and it is an absolute right. Also Rule 48 of the CCS (Pension) Rules provides ^{that} ^{at} any time after the Government servant had completed 30 years qualifying service he may be required by the appointing authority to retire him in public interest. According to these rules the respondents are within their rights to retire the applicant pre-maturely. We find that the respondents have followed the prescribed procedure and the applicant's case was properly reviewed by an internal Screening Committee. The learned counsel for the respondents states that it was also reviewed by the Committee of Vigilance and only thereafter having found that the applicant was ineffective in his performance and that he was not corrigible, it was decided that the applicant was not fit enough to be further continued in the service of the respondents and, therefore, the notice of compulsory retirement was issued with three months notice or salary in lieu of three months' notice. In view of the fact that the respondents have followed the procedure and based on the record of performance of the applicant and the various punishments received by the applicant during his service and particularly the ACR of 1988-89 have come to the conclusion

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to retire the applicant compulsorily. We do not find any infirmity in the orders of the respondents and are satisfied that the respondents have exercised their right properly. We cannot sit in judicial review over the review carried out by the Screening Committee and the Vigilance Committee, it is not for us to go into the details of the service record and come to a different conclusion than that of the respondents and the Screening Committee.

7. In the result, the OA fails and is accordingly dismissed. No order as to costs.


(Smt. Shanta Shastri)
Member (Admnv)


(V. Rajagopala Reddy)
Vice-Chairman (J)

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