

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.686/1997

New Delhi, this 31st day of May, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Yoginder Nath
614, Mohalla Brahmo Ka
Vill. & P.O. Gurgaon
Ex.Const.No.1089/ND (Delhi Police) ...Applicant

(By Shri Rajeev Chhibber, Advocate not present)

versus

1. Commissioner of Police
Delhi Police Hqrs.
I.P.Estate
New Delhi.
2. Addl. Commissioner of Police
New Delhi Range
PHQ, IP Estate, New Delhi ...Respondents

(By Shri Anoop Bagai, Advocate - not present)

ORDER(oral)

By Reddy, J. -

The applicant, a Constable in Delhi Police, was compulsorily retired under Fundamental Rules 56 and Rule 48 of the CCS (Pension) Rules, 1970 by order dated 8.9.1989. He made an appeal against the said order on 28.9.1989 to the Additional Commissioner of Police. Aggrieved by the order of compulsory retirement, the applicant filed OA.2253/1996 and the same was finally disposed of by an order dated 12.12.1996 directing the respondents to dispose of the appeal dated 28.9.1989 with a speaking order within two months. Accordingly the impugned order dated 11.2.1997 was passed by the appellate authority is under challenge in this OA.

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2. None appears for the applicant either in person or through the counsel, nor for the respondents. Since the matter is of 1997, we propose to dispose of the same on the available pleadings.

3. The compulsory retirement of the applicant by order dated 8.9.1989 is questioned in this case. As seen supra, the order of compulsory retirement passed in 1989 was questioned by the applicant in OA.2253/96 and in view of the direction given by the Tribunal to the appellate authority, the impugned order is now passed.

4. We have closely examined the impugned order. The applicant was found to be unfit for active field duties. He availed of medical leave^{on} as many as 140 occasions for a period of nine years in his career. The plea of the applicant that he was a patient of Bronchial Asthma with Emphysema was duly considered by the appellate authority and in view of the fact of his serious medical problems as well as his absence over several years on many occasions, the appeal was rejected. Though it was also considered that he had six commendations, the same were found to be awarded in a routine manner and have no bearing in over all efficiency.

5. The applicant's contention in the OA that in spite of his request for lighter duties in the department he was not considered for the same, cannot be considered by us at this stage. It was for the employer to have considered the same and as he has duly considered as

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seen in the appellate authority's order, it is not permissible for us to interfere with the order.

6. We do not, therefore, find any merit in the OA. OA is dismissed without, however, ordering any costs.

Shanta f
(Mrs. Shanta Shastri)
Member(A)

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