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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.2361 of 1989

Date of decision:
23rd September, 1993.

ShriChander Pal Singh.....Applicant.

Versus

The Commissioner of Police & 2 Ors.....Respondents.

Coram:

The Hon'ble Mr Justice S.K.Dhaon, Vice Chairman.
The Hon'ble Mr B.N.Dhoundiyal, Member(A).

For the petitioner: Mr H.R.Bhutani, Advocate.

For the respondents: Mr Gaj Raj Singh, Advocate.

JUDGMENT (Oral)

(By Hon'ble Mr Justice S.K.Dhaon, V.C.).

The petitioner, a Sub Inspector in the Delhi Police, challenges the legality of the order dated 31st August, 1989, passed by the Deputy Commissioner of Police in the purported exercise of powers under Rule 48 of the Central Civil Services (Pension) Rules, 1972('the rules').

2. The learned counsel for the respondent has produced before us the relevant record. We have perused the same. It appears that a Review Committee was constituted to examine the question as to whether the petitioner should be compulsorily retired from service. That Committee met and considered the matter. It had before it, the past service record of the petitioner. However, under Column No.8 of Part-II of the proforma, which

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reads: "orders by review Committee giving full justification and clear rules under which action is proposed to be taken", there are no remarks whatsoever. The Committee comprised of Deputy Commissioner of Police(Chairman), Additional Deputy Commissioner and Assistant Deputy Commissioner of Police as members. Therefore, there can be no escape from the conclusion that the Committee did not record any finding that it considered that it was in the public interest that the petitioner should be retired from service.

3. There are no statutory rules with respect to the procedure to be adopted for taking a decision of compulsorily retiring a government servant, however, certain instructions have been issued. The relevant instruction is to be found at page 340(Appendix 10) of Swami's Pension Compilation, in accordance with the Central Civil Services(Pension) Rules, 13th Edition. The relevant instruction is:

"Committees shall be constituted in each Ministry/Department/Office, as shown in Annexure-II to which all such cases shall be referred for recommendation as to whether the officer concerned should be retired from service in public interest or whether he should be retained in service."

4. We have already indicated that in pursuance of the instructions a Committee was constituted and that committee did consider the matter. However, the Committee did not make any recommendation, whatsoever, as to whether the petitioner should be retired from service. This short-coming in the proceedings of the Committee, in our opinion, is enough to vitiate the order of

compulsory retirement.

5. This petition succeeds and the impugned order dated 31st August, 1989 is quashed. The petitioner shall be re-instated in service with full back wages. However, it will be open to the respondents to pass a fresh order, if advised, on merits and in accordance with law.

6. There shall be no order as to costs.

(B.N.Dhondiyal)
Member (A)

(S.K.Dhaon)
Vice Chairman

23rd Sept., 1993.

(SDS)