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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, FARIDKOT HOUSE, NEW DELHI

O.A. No. 1663 of 1988

22nd day of November, 1993

1. Hon'ble Mr. J.P. Sharma, Member (J)
2. Hon'ble Mr. B.K. Singh, Member (A)

Jai Prakash
S/o Shri Ram Saran,
Village Kurksi, P.O. Muradnagar,
District Ghaziabad (U.P.) Applicant

By Advocate: Shri Umesh Mishra

Vs.

1. Union of India, through
Secretary, Ministry of Food & Supply,
Government of India,
New Delhi
2. M/s Delhi Milk Scheme,
through General Manager,
West Patel Nagar,
New Delhi. Respondents.

By Advocate: Shri P.P. Khurana with
Shri George Paracken

O R D E R (oral)

Hon'ble Mr. J.P. SHARMA, Member (J)

The applicant was serving in the Delhi Milk Scheme as Driver since 31st January 1969. A departmental enquiry was initiated against him under CCS(CCA) Rules 1965 by the Disciplinary Authority on a charge of misconduct that while on duty as driver, the applicant was caught red-handed selling 34 milk-filled bottles and thereby he committed a misconduct under Rule 3 of CCS(CCA) Rules 1964.

2. The Disciplinary Authority appointed an inquiry officer who submitted the report dated 16.4.87 and after considering the same agreeing with the inquiry

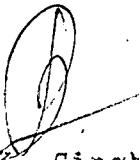
officer, Shri Luthra, the D.A. passed order of punishment dated 27.5.87 imposing the penalty of compulsory retirement from service. The applicant preferred an appeal dated 16.11.87 and in reply filed by the respondents on 25.1.89 it is stated that the appeal is still pending consideration (para 6.9).

3. We have heard the learned counsels for the applicant and the respondents and perused the record. The learned counsel for the applicant did not press the case on merit. He only argued that a compulsory retirement by way of punishment imposed under Rule 11 of CCS(CCA) Rules 1965 does not debar the grant of retirement benefits as laid down in Rule 40 CCS (Pension) Rules 1972.

4. The case of the learned counsel for the applicant is that in spite of this order of compulsory retirement the applicant has not been paid retiral benefits. The respondents have not disposed of the appeal and it appears that till the punishment order impugned in the present application gets finality the case for grant of retirement benefits could not have been considered. Now the applicant's counsel does not want to press the case on merit. The applicant has to be paid retirement benefits which include pension, gratuity and other benefits in accordance with Rule 40 of CCS (Pension) Rules 1972. The applicant joined the respondents as Driver on 31.1.69 and his date of birth is 7.1.37. Thus he had completed more than 50 years of age when the impugned order of punishment was passed against him. He has also put in more than 18 years service as

driver with the respondents. In fact the order of compulsory retirement as a punishment visualises that it is not desirable to keep the applicant in government service or to give him all his due benefits which he has earned by putting in a number of years of service to his credit. Although the applicant has not claimed any relief for grant of pensionary benefits but the counsel for the applicant argued that he has already prayed in para 9 that any other relief which the Tribunal may deem fit may be given to the applicant. In view of this fact, the application is disposed of upholding the order of punishment of compulsory retirement directing the respondents to abate the appeal filed by the applicant against the aforesaid order and give him retirement benefits including pension, gratuity etc. as admissible to him under rules by virtue of having put in more than 18 years service. The respondents are further directed to give benefits to the applicant within a period of 4 months from the date of receipt of a copy of this judgment. In case the same is not paid to the applicant within 4 months then thereafter the respondents will be liable to pay an interest of 12% per annum on the arrears of pension, gratuity etc.

In the circumstances, the parties are left to bear their own costs.



(B.K. Singh)

Member (A)



(J.P. Sharma)

Member (J)