

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 460
T.A. No.

1986

DATE OF DECISION 14th July, 1986.

Shri Dhananjaya Kumar Mishra, **Petitioner**

In person.

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Sh.V.K.Ray, Asstt., Meteorological **Advocate for the Respondent(s)**
Department.

CORAM :

The Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *no*
4. Whether to be circulated to all Benches? *no*

K. Madhava Reddy
(K.Madhava Reddy)
Chairman 14.7.86.

Kaushal Kumar
(Kaushal Kumar)
Member 14.7.86.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

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REGN. NO. CA 460/86.

Dated the 14th July, 1986.

Shri Dhananjaya Kumar Mishra

.... Petitioner.

Versus

Union of India

.... Respondents.

CORAM:

Shri Justice K. Madhava Reddy, Chairman.

Shri Kaushal Kumar, Member.

For petitioner

In person.

For respondents ...

Shri V.K. Ray,
Asstt. Meteorological
Department.

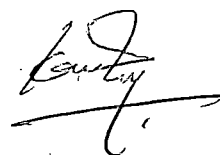
(Judgment of the Bench delivered by
Shri Justice K. Madhava Reddy, Chairman).

This petition under Section 19 of the Administrative Tribunals Act, 1985 was filed calling in question the order of compulsory retirement dated 4.4.86 made in exercise of the powers conferred by clause J(i) of Rule 56 of the Fundamental Rules retiring the petitioner prematurely from service w.e.f. the forenoon of 4.7.1986. The petition was admitted on 2.7.1986 pending further orders on the petition, the operation of the impugned order was stayed. After the notice of the petition was served on the respondents, the withdrawal of the impugned order was communicated to the petitioner as under:

"The President is pleased to decide that the notice of premature retirement served on Shri D.K. Mishra, Director vide order No. A.38017/2/85-E.I dated April 4, 1986 stands withdrawn."

2. A further order No. A.32013(DDGM)/2/83-E.I

dated 8.7.86 was also communicated to the Union Public Service Commission, communicating to it that the



-----2.

petitioner may be considered for promotion. That
order reads as follows:-

" Kindly refer to UPSC letter No.F.1/7A(i)/
86-AU.7 dated 1.7.1986 on the above subject.
I am to inform you that the Government have
since withdrawn the notice for premature
retirement served on Shri D.K.Misra, Director.
As such, Shri Misra is now to be considered
for promotion.

2. The C.R. dossiers of the following officers
are sent herewith:-

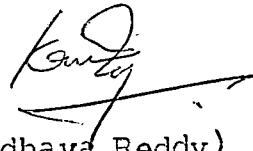
- i) Shri D.K.Misra,
- ii) Shri S.Raghavan.
- iii) Shri C.M.Barma"

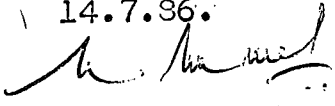
3. The petitioner still apprehends that some
uncommunicated adverse remarks may be put against him
and may be taken into account by the UPSC or by the
Government in making the Selection and appointment.
In view of the alleged harassment in the past he
apprehends that he may be denied promotion legitimately
due to him on the basis of any such alleged remarks.

4. Having regard to the several judgments of the
High Courts and the Supreme Court that uncommunicated
adverse remarks cannot be taken into account in assessing
the merits of an eligible candidate for promotion and
cannot be put against any candidate in the matter of
selection and appointment, we have no doubt that the UPSC
and the Central Government would consider the petitioner's
claim for promotion. Since no adverse remarks are said
to have been communicated and the respondents have
not yet acted upon uncommunicated remarks, if any,
and the petitioner has not been overlooked, there is
no occasion for this Tribunal to give any positive
directions to any of the respondents at this stage in



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regard to the other reliefs prayed for. If he is in fact overlooked, it is always open to him to challenge the said action on this and such other grounds as are open to him in law. The petition is accordingly allowed to the extent indicated above; but no further directions are necessary to be issued in view of the subsequent withdrawal of the impugned order. This order shall, however, be communicated to the respondents and the UPSC forthwith.


(K. Madhava Reddy)
Chairman
14.7.86.


(Kaushal Kumar)
Member
14.7.86.