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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No.2087/92

Date of decision: 27.07.93.

Shri Lok Nath

...Petitioner

Versus

Union of India & Anr.

...Respondents

Coram:

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner Shri B.K. Batra, Counsel.

For the respondents Shri H.K. Gangwani, Counsel.

Judgement(Oral)

I have heard the learned counsel for both the parties. The undisputed facts of the case are that the petitioner was declared unfit for A-1, A-2 and A-3 categories but found fit in classes C-1 and C-2 with glasses and hearing aid on 27.12.1991. He was granted six months' leave in accordance with the rules which expired on 22.6.92. He was due to retire normally on attaining the age of superanuation on 31.8.92. He was retired from service, invoking the provisions made in Railway Board's letter No. 85/H/5/10 dated 27.6.1990 w.e.f. 31.8.1992. The learned counsel for the petitioner submits that this letter is not applicable in the case of the petitioner as the said letter has been issued keeping in view the tendency among some Railway employees who were bringing pressure on the administration or getting themselves invalidated on medical grounds during the last year of their service. The petitioner is not said to have brought any pressure on the respondents and, therefore, it is contended that the question of complying with the provisions made in this letter does not arise.

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2. The next point urged by the learned counsel Shri Batra is that the petitioner was directed vide letter dated 13.1.92 to appear in the D.R.M. office on 31.1.92 for adjudging suitability for an alternative job. The petitioner was, however, not given any alternative job. On the other hand, he was retired from service. The learned counsel also cited Rules 1301, 1304 and 1315 of the Indian Railway Establishment Manual (IREM) in support of his contention.

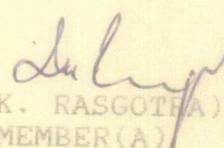
3. Shri H.K. Gangwani, learned counsel for the respondents referred to the counter-affidavit filed by the respondents and submitted that the Rules cited from the IREM by the learned counsel for the petitioner are not applicable in the facts of this case. The petitioner was not declared unfit for all categories nor was he declared as medically incapacitated. He was found to be unfit for categories A-1, A-2 and A-3 and fit for categories C-1 and C-2 with glasses and hearing aid. He was placed on leave and extraordinary leave for six months w.e.f. 26.12.91. Since he was due to retire within one year, his case was referred to the General Manager, in terms of the provisions made in Railway Board's letter dated 27.6.1990 adverted to above. The relevant paragraph of the said letter reads:-

"General Manager would be competent authority to accept this invalidation after the age of 57 years, acting on the expert advice of CMO. He will use discretion."

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4. It was also contended by the learned counsel for the petitioner that General Manager has not sought the expert advice of the CMO. However, in view of the clear averments of the respondents that the General Manager took the decision to retire the petitioner in terms of Railway Board's letter referred to above, I have no reason to doubt that the General Manager did not proceed to dispose of the case in accordance with the provisions made in the said letter of the Railway Board. There is no provision in the rules that the petitioner should have given a personal hearing before retiring him on 31.8.92. The judgement relied upon by the learned counsel for the petitioner reported in 1991 (3) SLJ 376 between Upendra Nath Mallick and Union of India and others is distinguishable from the facts of the present case.

5. I have considered the submissions made by the learned counsel for both the parties and gone through the record. The respondents have retired the petitioner in accordance with the rules, since they did not find any alternative job for him. In the circumstances, any interference from the Tribunal is not warranted. The O.A. is accordingly dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

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