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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

O.A.No. 132 of 1987.

Hari SinghApplicant.

Versus

Senior Divisional Mechanical Engineer &
othersRespondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The applicant Hari Singh, who died during the pendency of the case and is represented by his legal representative, had approached this tribunal praying that the respondents be directed to pay the gratuity and salary / of the period ensuing from the period of his pre-retirement to his date of due retirement and to pay him pension accordingly after calculating his salary due after two years. Subsequently, it was also prayed that the impugned order dated 6.7.84 passed by the D.R.M. /M.B for compulsory retirement w.e.f. 7.7.84 and the appellate order dated 11.2.86 be also quashed being illegal and without jurisdiction.

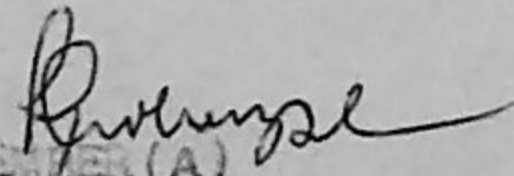
2. The applicant was a driver and an accident took place on 19.5.83, as a result of which a charge sheet was served on him on 18.8.83 with the allegation that he failed to get free test for brake-power and disobeyed home signal which was red, and which resulted in an accident. The applicant filed his explanation for the same. In the mean time, it appears, he was declared medically unfit for service after medical examination, and he was only found fit in category C-1/below by the Divisional Medical Superintendent, Moradabad who also mentioned in his order dated 20.6.84 that the question of absorption of the applicant in any alternative post shall be considered by the

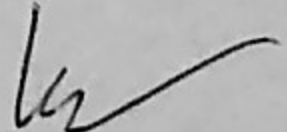
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Divisional Railway Manager, Northern Railway and in case he is recommended for any other category which does not involve any risk to the personal safety of the applicant, his case may be considered. It appears that as the applicant was involved in an accident, an enquiry took place at various places and the Disciplinary Authority came to the conclusion that the applicant is guilty of the charges, levelled against him and consequently he was compulsorily retired from service. He filed an appeal against the same which was also dismissed. Thereafter, he approached this tribunal.

3. The applicant was found medically unfit for a particular category and was recommended for yet another category but he, having been compulsorily retired as a result of punishment order, cannot lay any claim for a particular category. A prayer has been made by the applicant's wife that in case her husband was being retired w.e.f. 7.7.84, her son may be given compassionate appointment. The prayer does not hold any water as he was not retired because he was found medically unfit for a particular category and was found fit for other category but as a matter of fact, the retirement was ordered because of result of enquiry against the applicant. As such, the applicant failed to make out any case and the application deserves to be dismissed and accordingly, it is dismissed. No order as to costs. However, it is open for the Railway Administration to consider the case of the applicant in accordance with law. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: JULY 28, 1992
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