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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A.N.O. 521 of 1987

Smt. Vidya Kapoor

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Applicant

Vs.

Union of India & Others

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Respondents

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

Hon'ble Mr. A.B. Gorathi, Member (L)

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

The applicant who was working as a Post Graduate Teacher in scale of Rs. 1640-2900/- in Diesel Locomotive Works Inter College, Varanasi has come before this Tribunal challenging the order dated 15.6.87 retiring her compulsorily ^{under} ~~conferred by~~ Rule 2046(h)(ii) of Indian Railway Establishment Code Vol.II, whereas in the normal course she would have retired on 31.6.1983.

2. The applicant is M.A. in Hindi and M.A. in English, Saraswat-Ed. B.T. was earlier Assistant Teacher was promoted in the Lecturer grade on 4th September 1979. The applicant stated that the result was very good 98 to 100% and no adverse entry whatsoever communicated to her and she was never apprised of the fact that her work at any time was below average or required any brushing or that she required some improvement in her work. Abruptly such an order has been passed.

3. The respondents have tried to justify the order on the ground that the review committee considered her case and in public interest she was not found fit enough to be retained in service and that is why the order of compulsory retirement was passed. It is also stated by the respondents that the confidential reports for the year 1983-84 and 1984-85 are average to good and in the confidential reports for 1985-86 the countersigning authority has judged the applicant to be below average. The applicant was also found below average in regard to fitness for promotion

for Class II post. However, the Reviewing Committee after going through the service record and confidential reports including other reports about her performance recommended that the applicant is not considered suitable for further retention in service in the public interest. Accordingly a notice dated 10.3.87 was served. The facts as stated above make it clear that no adverse entry whatsoever has been communicated to the applicant and nor she apprised also that her work was below average or that it requires some brushing or improvement. In the year 1984-85 she was just average to good meaning thereby that her entry in the year 1984-85 was not bad, and in the confidential report of 1985-85 only the countersigning authority has judged to be below average. Apart from that there appears to be nothing against her. It is not known how this overall assessment has been made. Learned counsel for the respondents Shri Lalji Singh justifying that the compulsory retirement made reference to the Supreme Court decision in case of Jayanti Kumar Sinha Vs. Union of India & Others 1989 (9) Administrative Tribunal Cases. In which it has been stated that ordinarily when the entries relates to itself and leading to adverse entries in the communication thereof is sent to the officer concerned with a view providing an opportunity for improvement of performance. In the case of Jayanti Kumar Sinha it was noticed that the entries in question were based on general assessment of performance. He was communicated years back with general disapproval of his method of working, and the review proceedings were in accordance with the guidelines framed by the government on the post on which the applicant was working was responsible one and his performance could not be tolerated.

4. The applicant ~~herself~~ ^{was} as a teacher, and the assertion made by her that her result was good has not

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been denied, and apart from the last entries which has been stated back we do not find that any adverse remarks was given to her and ^{at} any time she was asked to improve herself. Her case is different from the case of Jayanti Kumar Sinha from 1975 to 1984 consistently the applicant ⁱⁿ that case had bad remarks and adverse entries and disapproval of the authorities for his mode of functioning. During all these years he was not appreciated to be a good officer or upto the mark. Consistency of the continuous record it appears that the review committee come to the conclusion that he had lost utility and has become a dead wood as mentioned in his confidential report in the year 1980. Thereafter he was allowed to continue for 4 years. A solitary entry and that to in respect of a teacher without any explanation could not be said that the teacher has lost ^{his} utility and become dead wood. As such it could not be said in case of overall assessment because no warning was given to the applicant. The decision of the review committee was not in consonance ^{with} of the facts as they were on confidential record and the review committee ^{exceeded} ⁱⁿ jurisdiction ^{by} enlarging the scope of his jurisdiction ^{during} ⁱⁿ retirement even those who should not have been touched.

5. The decision in such circumstances could not be ^{said} to be in public interest, and as such this application deserves to be allowed and the order dated 10.3.87 by which the applicant was compulsorily retired is quashed and the applicant will be ^{deem} to be continue in service upto the date when she attained the age of superannuation, and she is entitled to all the consequential benefits. No order as to costs.

Manoj
Member (A)

LS
Vice-Chairman.

25th November, 1991, Alld.

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