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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 973 of 1988

DATED : 22.12.1994

Hon'ble Mr. S.Das Gupta, Member(A)
Hon'ble Mr. Jashir S. Dhaliwal, Member(J)

Harihar Nath Sonker, Chief Goods Superintendent,
Northern Railway, Kanpur (Central).

Applicant

By Advocate Shri Anand Kumar.

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi-1.
2. Divisional Railway Manager, Northern Railway,
Allahabad.
3. Senior Divisional Commercial Superintendent,
Northern Railway, Allahabad.
4. Area Manager, Northern Railway, Kanpur.

Respondents.

By Advocate Shri Prashant Mathur.

O R D E R (Oral)

By Hon'ble Mr. S.Das Gupta, Member(A)

None for the applicant. Sri Prashant
Mathur for the respondents. On the earlier ^{two} occa-
sions also none appeared on behalf of the appli-
cant. On 16.11.1994 when Shri Anand Kumar, erst-
while counsel for the applicant stated at bar that
he has no longer represent the applicant, the case
was adjourned by giving another opportunity to
the applicant to plead his case. However, as
none has appeared today again and there is no

:: 2 ::

request for adjournment, we have heard Shri Prashant Mathur, learned counsel for the respondents and proceeded to decide this matter on the basis of pleadings on record.

2. The applicant who was Chief Goods Superintendent in Northern Railway, Kanpur Central was compulsorily retired from service w.e.f. 20.7.1987 by impugned order dated 20.7.1987 ~~dated~~ in terms of Rule 2046 (H)(II) of the Indian Railway Establishment Code. The order has been challenged on several grounds. These are;

- A. The Senior Divisional Commercial Superintendent who had passed the impugned order, is not the competent authority to retire the applicant pre-maturely.
- B. No adverse entries about doubtful integrity of the applicant have been communicated to him in the entire service career and, therefore, Review Committee have been violated the Rule and Procedure laid down in Rule 2046 (H)(II) of the I.R.E.C.
- C. That the Review Committee was not properly constituted.
- D. The impugned order was passed with malafide intentions since the Area Manager was annoyed with the applicant being a S.C. employee and he wanted to post another person in his place by transfer.
- E. Payment of salary of 3 months in lieu of notice has not been paid correctly.

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3, The respondents have resisted the contention of the applicant in their Counter-affidavit. It has been stated that a Review Committee which was properly constituted ^{with} through officers of the JA Grade has considered the case ⁱⁿ of the applicant and had ^{come} _u to the conclusion that he should be compulsorily retired on attaining the age of 55 years. It has also been stated that his service record is not satisfactory, he was involved in a vigilance case, which resulted in imposing of penalty of reduction in the pay by 3 stages. It has also been stated that under the relevant rules, the applicant had right to represent against the order of compulsory retirement but, he did not submit any representation.

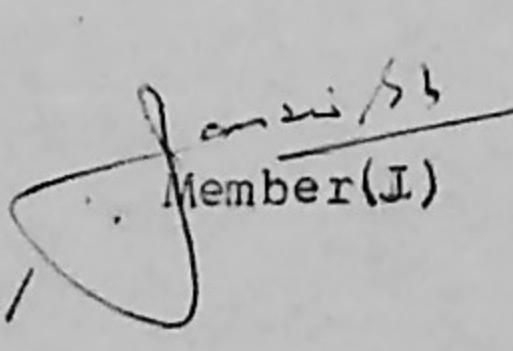
4. The facts averred by the respondents in the counter-affidavit have not been disputed by the applicant who has not filed any rejoinder. In view of this, we cannot hold that the Review Committee was improperly constituted or that the recommendations of the Review Committee was not justified. As regards the competence of authority who had passed the order of compulsory retirement, the respondents have averred that the authority who had passed this order, was the appointing authority in respect of the applicant and hence, he was fully competent to pass the order of

9
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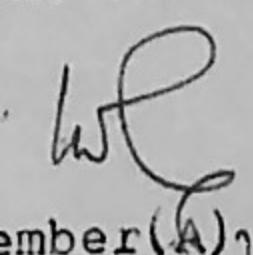
compulsory retirement. Since, no rejoinder has been filed, this averment is not in dispute. It is also not in dispute that the applicant did not avail the remedy which was statutorily available to him under the rules.

5. The application could have been dismissed on the ground of default alone since, on three consecutive occasions, none has appeared on behalf of the applicant. However, even on merit, we find that the applicant has failed to establish any case for our interference in the matter. Even otherwise the application is not maintainable since it has been averred by the respondents that the applicant has not exhausted the statutory remedies available to him before approaching this Tribunal and this fact is not disputed by filing any rejoinder.

6. In view of the fore-going, we find that the application has no merit and the same is dismissed. There will be no order as to costs.


/M.M./

Member (I)


Member (A)