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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Registration C.A.No.184/90
" " 327/90
" " 369/90
" " 403/90
" " 413/90

R.K.Kitchlu Applicant

Versus

Union of India & 5 Others... Respondents

Hon.Mr.Justice K.Nath, V.C.

Hon. Mr. A.B.Gorathi, Member (A)

(By Hon.Mr.Justice K.Nath, V.C.)

The five applications under Section 19 of the Administrative Tribunals Act, 1985 described above arises out of common questions of fact as well as law; the earliest of these cases i.e. C.A. No.184/90 is by the leading case in which an order dated 1.3.90, Annexure-A1 communicated by letter dated 2.3.90, Annexure-A2, the applicant was compulsorily retired from service under Rule 1802 of the Railway Establishment Code Volume II. Some of the foundational facts set out in this case namely certain adverse remarks in the A.C.R. and certain punishments awarded on chargesheet, are subject matter of the remaining four cases as shall appear hereafter.

2. Dek Grove School Jhari Fani, District Dehradun is a school established and administered by the Northern Railway. It has three components : a Junior School, a Senior Girls School and a Senior Boys School. The Principal of the School has the over all control on all the three components; he is a Gazetted Officer of the Junior Administrative Grade in the Railways. The School has a Board of Governors consisting of the

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General Manager, Senior Deputy General Manager, FA&CAD, Chief Engineer (Civil), Chief Medical Officer, Chief Personnel Officer, Divisional Railway Manager, Moradabad and the Principal of the School. General Manager is the Chairman. Chief Personnel Officer is the Executive Governor. Principal is the Secretary. Rest are Members. During the relevant period of controversy in these cases respondent No.5, A.N.Wanchoo was the General Manager/Chairman, respondent No.4, K.L.Sikka was the C.P.O./Executive Governor.

3. Respondent No.2 is the General Manager by office held in person by respondent No.5. Respondent No.3 is the Chief Personnel Officer by office held personally by respondent No.4. Respondent No.1, of course, is the Union of India through Secretary of Railway Ministry; respondent No.6 is the Railway Board through its Chairman.

4. The applicant R.K.Kitchlu was appointed Principal of the School by order dated 23.2.72. Respondent No.4 was nominated to the Board of Governors in February, 1986. He visited the School on 'Founders Day', his first visit on 1.6.86. He wrote out a Note in the School's Visitors Book (Annexure-A-5) appreciating discipline and standard of cleanliness etc in certain respects. He also mentioned that the problems which had been noticed would be tackled quickly. According to the applicant, the noting constituted appreciation of his performance; according to the respondents it was a Note in the Visitors Book only by way of politeness.

5. The Chairman of the Railway Board, Shri Prakash Narain inspected the School on 18/19.4.87 alongwith the Divisional Railway Manager, Deputy Chief Personnel Officer,

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the applicant and others. He recorded a Note dated 5.5.87 (Annexure-A.14 in D.A. No.413/90). After mentioning that the building was well maintained, that the boys and girls had been well turned out, that the school results had shown considerable improvements over years, he recorded suggestions that estimates be obtained for construction of Library rooms, that the Chemistry Laboratory of the Senior Girls School ^{which} had not been taken over for two years for want of certain essential requirements be taken over as the Divisional Railway Manager promised to provide the requirements. He observed that feasibility of constructing Art room in the School, Gymnasium in the Senior Girls School be examined, that two extra Malis and Choukidars be provided by surrendering six posts in the Kitchen Establishment. He mentioned that the Principal laid emphasis on delegation of powers and greater autonomy to the School Management "as a major problem" and observed that the proposals submitted by an earlier Committee of Chief Engineer and FA&CAO be put up, General delegation of powers to Principal be reviewed. A Committee consisting of the Principal, an officer of the Personnel Department, one officer of the Accounts Department should submit a report in that regard within one month. He suggested that there should be a monthly P.C.O.O. from the Principal to the C.P.O. indicating the activities, the progress in implementation of the decisions and the problems which were being faced and the assistance which was required from the higher authorities. He observed that the C.P.O. should take quarterly Review Meeting with the Divisional Railway Manager, Principal and D.S.E. and the General Manager alongwith the CFO/C.E. and C.M.O.

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should make regular inspection once in every six months and submit notes to him. He remarked that the proposal for upgrading the Principal's post from Junior Administrative Grade to Senior Administrative Grade be kept in view during implementation of the cadre restructuring and it should be examined whether the Principal can be made to be the Accepting Authority after the recommendations of the Tender Committee in the matter of contracts for supply of vegetables, fruits, milk, bakery products and transportation of goods etc.

6. According to the applicant's case these Notes recorded by the Chairman constituted directions to respondent Nos 4 & 5 being the Chief Personnel Officer and the General Manager respectively, but they did not comply with those directions with the result that when the Chairman, Shri Prakash Narain again visited the School on 2.6.87 when the School's Centenary Celebration Functions took place, he strongly castigated them as well as the Chief Medical Officer threatening to take severe action unless they immediately acted upon the inspection Notes of 5.5.87. He urged that since he was the person who had placed the problems before the Chairman on the visit dated 18/19.4.87 and the failure of respondents 4 & 5 was brought to the notice of the Chairman on the visit dated 2.6.87, respondents 4 & 5 got annoyed and prejudiced against him. All the subsequent events which are the subject matter of these five cases are said to originate from this bias and prejudice.

7. According to the respondents the second visit of the Chairman, Shri Prakash Narain took place within hardly 26 days of the recording of the Note dt. 5.5.87.

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There was no question of the Chairman being annoyed for inaction because he had been informed that actions on the Notes dt. 5.5.87 were in progress. They said that the Chairman had not threatened them with any severe action for the alleged inaction. They contended that they were neither prejudiced nor biased against the applicant and that the applicant's own record of performance was poor from the very beginning of his employment.

8. It was stated in para 4(14) to (17) that although his record had been exemplary and outstanding for the last sixteen years, he was communicated adverse entry 1986-87 mentioning that communication with subordinate staff and teachers needed to be improved by the applicant (vide Annexure-A.7). The respondents' case is that having been employed in the year 1972, the applicant earned adverse entries in 1972-73, 1977-78, 1986-87, 1987-88, 1988-89 and critical remarks from the Member Engineering and Chairman in 1986 and 1988.

9. The Minister of State for Railways was the Chief Guest at the Centenary Celebration of 1.6.88. According to the applicant the Minister recorded an appreciation Note, Annexure-A.4(at page 67 of the Paper Book), but by letter dated 13.6.88, Annexure-A.11 of respondent No.5 the applicant's explanation was called for failing to see off the Minister of State from the School premises to the Helipad. An explanation was also called from the applicant for his absence at the time of arrival of the Chairman at the Senior Girls School gate although advised by respondent No.4 to be present and for smelling of liquor when he actually

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turned up late on being called. The applicant submitted his explanation dated 24.6.88, Annexure-A.12. This incident became subject matter of a minor penalty chargesheet dated 27/10/88 / 4/11/88, Annexure-A.17 under Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968. The applicant submitted a reply but he was punished with stoppage of four sets of privilege passes for 1989 for a period of one year under order dated 18.1.89, Annexure-A.23. This punishment order is subject matter of O.A. No.327/90 filed on 5.4.90.

10. In the meantime, he was also awarded an adverse entry in the A.C.R. of 1987-88 contained in letter dated 18.7.88, Annexure-A.13 by respondent No.4 on behalf of respondent No.5. According to the applicant, the entry contained false allegation for which he made a representation dated 19.8.88, Annexure-A.14. These adverse remarks are subject matter of O.A. No.369/90 filed on 16.4.90.

11. On 12.9.88 dinner was served to the students of Junior School. Shortly afterwards, some students complained of nausea and pain in the stomach. On 13.9.88 in the morning a large number of students went to the hospital with vomiting and diarrhoea; 40 of them were admitted to the hospital. On 14.9.88, 10 more students were admitted similarly sick. They were given treatment and were discharged on 16.9.88. It is said that on 13.9.88 at about 9.30 P.M. the D.M.D. went to the applicant's residence for action but the applicant could not be awakened from his sleep. It is further said that Sanitary Inspector wanted to take samples of the food but the applicant's wife informed that unless the applicant permitted, samples could not be

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taken. On these allegations the applicant was served with a chargesheet dated 28.8.88, Annexure-A.16 for minor penalty under Rule 11 of the D.A.R. The applicant submitted his reply but ultimately there again a punishment of withholding six sets of privilege passes of 1990 for one year was awarded by the General Manager's order dated 18.1.89, Annexure-A.24; that punishment is subject matter of O.A. No.403/90 filed on 30.4.90. The applicant filed appeals against both the punishment orders; according to him they have remained undecided.

12. For the year 1988-89 also the applicant was awarded adverse entry contained in letter dated 27.5.89, Annexure-A.27. He made a representation dated 21.6.89, Annexure-A.28 to Principal Staff Railway Board which the applicant nevertheless states to be addressed to respondent No.6, the Railway Board. The representation was rejected by respondent No.2 as contained in letter dated 11.8.89, Annexure-A.29 of respondent No.4. This adverse entry is subject matter of O.A. No.413/90 filed on 3.5.90.

13. It appears that in his capacity as the Principal of the School, the applicant used to receive an allowance of Rs. 150/- per month in addition to his normal salary. The respondent No.4 is said to have objected to the payment of the allowance in his Note dated 11.7.89 on the ground that allowance could be paid to only those persons who were actually doing ^{teaching} work but since the applicant was admittedly not doing teaching work he could not get the allowance. In view of the note of respondent No.4 payment of allowance was stopped by the Senior D.A.O. with effect from November, 1989 and instead

recovery of the allowance paid in the past was ordered at the rate of Rs.1650-12 per month from the applicant's salary. The applicant filed an appeal dated 23.1.90, Annexure-A.32 but that had remained undecided. The applicant's case is that the Railway Board's letter dated 11.1.88, Annexure-A.31 was clarified by the Railway Board's letter dated 11.4.88 to the effect that special allowance payable to the Principal had no connection with the actual teaching duties. This is also set up as indication of the bias of respondent No.4.

14. While the applicant's claim that the results of his School had been exemplary since 1980, his grievance is that he was ordered to be compulsorily retired by the impugned order dated 1.3.90, Annexure-A.21 communicated by letter dated 2.3.90, Annexure-A.2 under Rule 1802(A) of the Railway Establishment Code. He said that the order of retirement was based on the adverse entries given for the years 1986-87, 1987-88, 1988-89 and the two punishment orders dated 18.1.89 against which appeals were pending and while the entry of 1986-87 was not adverse the other two entries were the result of mala fides and bias of respondents 4 & 5. It was urged that respondent No.2 who was the Reviewing Authority on the recording of the A.C.R. by respondent No.4 was not competent to decide his representation. He urged that the entire service record had to be scrutinised by the respondents in an objective manner which they failed to do and that the impugned order of compulsory retirement was penal.

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15. We may mention that in respect of the recording of the entries in the A.C.R. the applicant placed reliance upon the provisions of paras 1606 to 1618 of the Railway Establishment Code and said that the respondents had committed breach thereof.

16. We do not find it necessary to repeat separately the stand taken by the applicant in the remaining four Original Applications regarding the adverse entries and the punishment of withholding of passes because the case stated there is on the same lines as set out by us above in the leading case of compulsory retirement i.e. O.A.No.184/90. We may refer to any specific and particular features of a particular matter as and when we consider appropriate in dealing with these cases.

17. Shri S.C.Budhwar, Advocate has appeared on behalf of the applicant. Shri K.N.Tripathi and Shri J.Nagar, Advocates have appeared on behalf of the respondents. Counters and rejoinders have been filed.

18. We may first deal with the applicant's allegation of bias which has been urged in connection with all the five cases. Respondents 4 & 5 are said to have been biased

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because on the applicant's pointing out the deficiency of the administration, the Chairman is said to have castigated them. There is specific denial of these allegations in the Counter where it is pointed out that the second visit of the Chairman took place too soon on the 1st June, 1987 that is hardly within 26 days of the receipt of his inspection Notes dt. 5.5.87 while the directions given were in process.

19. It is clear from the Notes dt. 5.5.87, Annexure-A.14 that in most of the matters the Chairman had asked for proposal and estimates for his consideration. The positive action to be taken was to furnish equipment for Laboratory by D.R.M. Moradabad, not by respondents 4 & 5, to make half yearly inspections regularly by respondent No.5 alongwith respondent No.4 and others and to hold quarterly Review Meetings by respondent No.4 with the D.R.M., D.S.E. and the applicant as Principal. Obviously, none of these functions could be finalised by the 1st or 2nd June, 1987 by respondents 4 & 5. Even the monthly P.C.D.O. from the Principal, the applicant to the C.P.D. respondent No.4 indicating activities, progress in implementation of decisions and problems being faced or assistance required for higher authorities could not have fallen due till then. The probabilities therefore indicate that the Chairman had no occasion and therefore would not have expressed any resentment on the alleged non-implementation of the Inspection Notes by the time of the second visit for which the Notes were recorded on 18.6.87, Annexure-A.5. The orders of the Chairman contained in paras 3.1 to 3.5 of the Notes, Annexure-A.5 is that immediate action may be taken to fill the vacant posts of the staff, including teachers



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and Head Miss.ress, as pointed out by the applicant. The notes **do** not contain castigating remarks. On a consideration of this material, we find that the ground of bias against respondent No.4 is not established. The notes dt.11.7.89 by respondent No.4 regarding admissibility of the allowance of Rs.150/- per month may be erroneous, but concern a later period.

20. We may refer in this connection to the manner in which the applicant has prefaced his case of bias. He began with the statement that although respondent No.4 was C.P.O. since 1984, he visited the School for the first time on 1.6.86, the founders day. The Counter stated that respondent No.4 was nominated as Executive Governor of the Board of Governors only in February, 1986 hence he visited the School on 1.6.86. Similarly, the applicant said that on that visit respondent No.4 had recorded an appreciation Note in the "College Record", Annexure-A.5. The Counter Affidavit stated that it was written in the 'Visitors Book' which is not denied in the rejoinder. The nature of the record is not mentioned in Annexure-A.5 itself. It will be seen that neither the Institution carried the name of college - it is called Oak Grove School - nor a 'Visitors Book' can be an official record of the Institution required to be maintained in accordance with some Statutory Regulations as evidence of something. These features indicate that the applicant has not put his case in a straight forward and clean manner.

21. Against respondent No.5, there is an allegation of personal bias. He is the husband of Smt. Indira Kaul, the daughter's daughter of Ishwar Narain Kitchlu who was the uncle of the applicant. The applicant has described this to a "direct relationship" with respondent No.5, which obviously it is not.

22. It is alleged that regarding the property of Indra Narain Kitchlu (applicant's grand-father and

Smt. Indira Kaul's maternal great grandfather) there was a Civil Suit filed by a brother-in-law of one of the sons of Ishwar Narain Kitchlu in hand with the mother-in-law of respondent No.5. The Suit is said to have been decided in favour of the applicant's father while the mother-in-law of respondent No.5 is stated to have lost it. This, according to the applicant, caused serious resentment among the family relations so that on the applicant's father's death in 1972, none of the members of the family of Ishwar Narain Kitchlu visited the applicant's residence.

23. The remoteness of interest of respondent No.5 in the property matters of Indra Narain Kitchlu is obvious. Secondly, the applicant did not state in his petition the year when the Civil Suit was filed or decided. In the course of arguments, the learned counsel for the applicant stated that the Suit was filed in 1956-57 and decided in 1965-66. Applicant's father had died in 1972, the year in which he entered into service of this School. The story speaks for itself; it is nothing short of wild imagination of the applicant to give colour to events which occurred in 1986 and later. We hold therefore that allegation of bias of respondent No.5 also is not made out.

24. We may now take up the case regarding the adverse confidential remarks. D.A. No.369/90 concerns the remarks for the year 1987-88, D.A. No.413/90 concerns remarks for the year 1988-89. Remarks for 1987-88 are set out in Annexure-A.13; those for 1988-89 are set out in Annexure-A.27.

25. The validity of these remarks has been challenged

on facts as well as on law. It is well settled that the Tribunal does not sit in appeal on findings of facts; all that it can examine is the existence of material in support of the facts. The matters of breach on questions of law are certainly open for examination by the Tribunal.

26. The impugned entry for 1987-88 mentioned, inter alia, that the applicant had not initiated ACRs of teaching and other staff for the preceding two years which caused delay in their promotion. The case stated in D.A. No.369/90 is that ACRs of teachers were to be written for the period from January to December and of the rest for the period from April to March so that the teachers' ACRs could be written in February, 1987 only after the reopening of the School after Winter Vacation and those of the rest could be written in April, 1987. It is stated that no blank forms for 1986 ACRs were available in the stock, the Govt. Press could not supply the forms to the special messenger on the ground that the format has been revised and new forms were in the process of printing. The applicant said that he had reported the position to respondent No.4 by letter dated 20.5.87, Annexure-A.6 and respondent No.4 had advised by letter dated 29.7.87, Annexure-A.7 to record the ACRs on the old forms, 8 of which had been supplied to the applicant. It is further said that the ACRs were sent on 25.8.87 for those who were to be considered for the post of Headmaster or Head Mistress and as per instructions of respondent No.4 the remaining ACRs were sent after Centenary Celebration on receipt of new forms from the Govt. Press. One may wonder whether non-availability

of blank forms in stock can be a reason for not writing out the ACRs. Every Department and Office maintains the record of the ACRs of its employees, and even if blank forms are not available some of the old used ACRs can be taken help of to type out the proforma. Be that as it may, the fact, on the applicant's own showing, is that there was delay in writing the ACRs. In other words, there was material in support of the impugned entry hence this Tribunal cannot interfere with it on the ground that there was no factual basis for making that entry.

27. The applicant's case in respect of the entry for the year 1988-89 is contained in para 4(31) and subsequent paragraphs of O.A. No.4 413/90. In respect of the entry that the conduct of the applicant towards teachers and students was rough and they felt terrorised and that the applicant was in the habit of drinking and isolating himself in the evening and not being accessible to the staff and students is challenged on the ground that they are not based on facts. It is stated in para 35 of the Counter Affidavit that the applicant's conduct towards teachers and students was rough and terrorising of which numerous complaints were received by the Railway Administration; it is stated in para 38 of the Counter that the applicant had all along been inaccessible to the staff and students for which also numerous complaints were received by the Railway Administration. It is significant that according to para 36 of the Counter, the applicant had not taken any class nor delivered any lecture in the preceding 12 years. That allegation is not denied

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by the applicant; the explanation is that he had to supervise and coordinate the three Wings with their Headmasters and Head Mistress. As already stated, these are questions of facts into which this Tribunal cannot go; the **competent/** ^{Superior} Authorities were the best persons to know about those facts and indeed the respondents have reiterated that position in their Counter Affidavit.

28. Another portion of the remarks of 1988-89 mentioned that the applicant's communication skill was quite poor and he had not been able to talk to Teachers' Association though he was instructed to do so. The applicant's case in para 38 of the application is that neither the name of the Association of Teachers nor the date on which the applicant was to address them has been revealed anywhere, that there was no Union or Association of teachers in the School and therefore the entry is ~~factually~~ false. The respondents have made a vague effort to meet this objection in para 41 of their Counter Affidavit in so far as they have not been able to give particulars even now in the absence of which the remarks must be held to be vague and to be unfounded.

29. Another portion of that paragraph mentions that the applicant utterly lacked in coordinating ability and thus was not capable of achieving anything for the School. The applicant has stated in paras 4(41), (43) and (44) of the D.A. that the remark was tainted by malice and bias because as a fact the applicant had obtained an extension of the School to class 12 and recognition from the Board of Secondary Education and had maintained

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cent percent result at the Board Examinations since 1980 and that the entire Centenary Celebration of 1.6.80 was managed by the applicant in accordance with the General Manager's programme, Annexure-A.15. The allegation was however denied in paras 44 & 46 of the Counter Affidavit and it was stated that Centenary Celebrations were held and managed by the Railway Administration, that the recognition and extension of the School was obtained by the Railway Administration and that the credit for good results goes to the teaching staff while the applicant never took any classes or delivered lectures.

30. It appears to us that this part of the remark is too sweeping and vague; the remark that the applicant cannot achieve anything for the School is not a statement of fact but ^{makes} a presumption which is no part of the A.C.R. While we have rejected the applicant's case of malice and bias we cannot ignore the Chairman's Note, Annexure-A.14 that from 1980 to 1986 the School produced 100% successful results and that the number of students who secured more than 60% marks steadily increased from 72.2% in 1984 to 90% in 1985 and 93.3% in 1986; and similarly the number of students who secured more than distinction marks (75%) steadily increased from 5.5% in 1984 to 10% in 1985 and 18.8% in 1986. We are clearly of the opinion that with this progress and the failure of the respondents either to include specific data in the entry or to plead such data in the Counter Affidavit, the remark in question cannot stand. We hold therefore that the entire remarks contained in para 5 of Annexure-A.27 deserve to be struck down.

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31. The applicant's general assessment for the year 1988-89 is set out in para 3 of Annexure-A.27 and it is stated that he was unable to discharge the responsibility entrusted to him and that his behaviour on the occasion of Centenary Celebration on 1.6.88 and since then had been irresponsible and unbecoming of a Govt. servant. The applicant stated in para 4(46) that the remark of inability to discharge the responsibility etc. was patently unfounded as there was no mention of the failure of School on any account in this respect. In para 4(47) it was stated that Centenary Celebrations were successful for which appreciation Notes of High Dignitry were given and there was nothing wrong in the applicant's behaviour.

32. In para 49 and 50 of the Counter Affidavit, the applicant's claim is denied and it is stated that various complaints against the applicant had been received by the Railway Administration with regard to his indifferent attitude during the Centenary Celebrations. It was stated in para 44 of the Counter Affidavit that the applicant was missing at the time of visit of Minister of State for Railways, who was the Chief Guest, and the Chairman of the Railway Board at the dinner and at the time of Chairman's visit to the Senior Girls School. It is said that the applicant did not accompany the Minister of State from the School to the Helipad and did not come out of his house on being called and was reported to be drunk for which the C.M.O. made a complaint on 27.6.88. The respondents attached letter dt. 7.6.88, Annexure-R.1 to the Counter Affidavit by the Chairman, Raj Kumar Jain to respondent No.5, the General Manager stating that

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the applicant did not go to receive and see off the Minister of State, that the Principal excused himself at about 10.00 P.M. and that later when he was departing some old Oak Growins who had ~~been~~ collected at the gate of the Principal, (the applicant), told him that the Principal was drunk in his house and was not available to assist the Guests stranded due to storm.

33. It may be mentioned that in paras 4(18) to (22) of O.A. No.184/90 the programme, Annexure-A.10 chalked out for the occasion by respondent No.5 had instructions for the applicant to receive and see off the Minister of State for Railways upto the School premises. However, Annexure-A.10 does not contain any such instruction. It was further said that although the programme was of the arrival at 10.30 A.M., the Chairman, Railway Board arrived at 9.45 A.M. and hence he could not be present and reached immediately when he learnt about the arrival. He placed reliance upon a Note, Annexure-A.4 (in O.A. No.184/90) at Page 67 recorded by the Minister of State to show that he was given appreciation. We have gone through the Note; it does not contain anything specifically appreciative of the applicant himself. With all this material on the record, it is not possible to hold that the general assessment remarks in question had no foundation or basis at all. On the factual position therefore they have to stand.

34. We may now examine the legal aspects. The applicant's case is that both in regard to the recording of the adverse remarks and to the disposal of his representation against those remarks, the respondents have violated the provisions of Rules 1606 to 1618 of

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the Indian Railway Establishment Code Volume I of 1971. The case of the respondents in the Counter Affidavit is that there has been no violation of those provisions. Subsequently, respondent No.4 filed an Affidavit on 30.4.91 stating that the provisions concerning Confidential Reports in the Railway Establishment Code of 1971 had been given up in or about the year 1985 when the Railway Establishment Code was reprinted. It is stated that since 1987, the respondents have been following the principles and procedures laid down by the Ministry of Personnel in respect of which the Railway had issued letter No.E-106/0/P-III dated 12.5.87.

35. Rules 1606 to 1618 apply to Gazetted Railway servants like the applicant. Rule 1606 only requires that the Confidential Report should be submitted so as to reach the authorities mentioned in Rule 1615 by a specified Officer. Rules 1607 to 1609 indicate the manner in which the remarks are to be recorded. Rules 1610 and 1611 provide for communication of adverse remarks. Rule 1615 sets out the Reporting Officer in certain respects. Rules 1612 to 1614 and 1616 to 1618 are not relevant.

36. There is no controversy about the fact that respondent No.4 was the person who was competent to initiate the ACRs as Reporting Officer. The first controversy concerns the manner in which he should have recorded the ACR. According to Rule 1608, a Gazetted Railway Servant Shall not "ordinarily" be given an unfavourable Confidential Report before an opportunity has been given "preferably at a personal interview, or otherwise by a personal letter pointing out unsatisfactory performance or faults of character and

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temperament"; according to the applicant, no such opportunity was given to the applicant. It is also pointed out that according to the Rule, the manner and method of conveying the adverse remarks must be such "that the advice given and the warning or censure administered, whether orally or in writing shall, having regard to the temperament of the Gazetted Railway Servants, be most beneficial to him". The Rule goes on to say that if inspite of such action, there is no appreciable improvement and an adverse Confidential Report has to be made, the facts on which remarks are based should be clearly brought out. The learned counsel for the applicant says that the relevant facts have not been brought out clearly. The respondents' counsel has referred to the material including the precedent history of the applicant's work and conduct, set out in para 18 of the Counter Affidavit in D.A.No.413 of 1990 and says that all this material was brought to the notice of the applicant.

37. A scrutiny of Rule 1608 will show that it is not mandatory and that it is couched in so many ifs and buts that it is almost impossible to implement it; it almost needs a Reporting Officer who should also be a Psychologist. The Rule says that unfavourable Confidential Report "shall not ordinarily be given". The expression "ordinarily" makes it directory. The provision for an opportunity before recording the report is described to be given "preferably at a personal interview or otherwise by a personal letter". Here also "preference" has been mentioned. Regarding the manner and method of communicating the adverse remarks the provision is that

the advice given in the warning or censure administered should be on an appreciation of the temperament of the gazetted railway servant so that it is most beneficial to him. It is difficult to understand what the idea is. Temperaments and sensitivities differ from person to person and reactions to communication may vary. The Rule then goes on to say that the Reporting Officer should watch whether there is any appreciable improvement in the work and conduct of the Officer Reported upon after the advice, warning, Censure had been administered, and then he has to judge, even if there is no appreciable improvement, whether it is necessary for him to make an adverse Confidential Report and if he decides to make an adverse report then he has to state the facts on which the remarks are based clearly. The provision leaves so many steps in the discretion of the authorities that it cannot be enforced as it is. We are clearly of the opinion that the failure to comply with the provisions of Rule 1608 does not vitiate an adverse entry; the Rule is wholly directory, not mandatory. We hold that the impugned adverse entries are not open to question on the basis of Rule 1608.

38. The communication of the adverse entries to the applicant in accordance with Rule 1609 and 1610 is admitted. The controversy relates to the competence of the authority which considered and disposed of the representations against the entries.

39. It would appear from Rule 1610 and 1611 that the A.C.R. is to be recorded in two Sections. According to Rule 1610 the unfavourable report by the Reporting Officer in Section I is to be shown to the Railway servant reported upon. The Railway servant is entitled

to submit his comments on the adverse remarks. Thereafter the Reporting Officer may make further comments on the Railway servant's comments and forward the whole thing "to the next higher authority". The next higher officer, if it is considered necessary or desirable, may give the gazetted railway servant an interview before he frames his conclusion and endorse his remark on the report. This is perhaps the stage of remarks by the Reviewing Officer who, in view of Rule, should be the next higher authority to the Reporting Officer.

40. While Rule 1610 speaks of the "next higher authority" as the person competent to endorse his remark on the report given by the Reporting Officer, Note 2 to the Rule mentions the General Manager. Stating that Section II of the A.C.R. is to be initiated by a Gazetted Railway Officer not lower than a Junior Administrative Rank Officer, it says that no portion of the remark in that Section would be communicated except under the personal orders of the General Manager. The Rule thus draws a distinction between the "next higher officer" as the Reviewing Officer and the "General Manager" who is expected to issue instructions whether the remarks in Section II have to be communicated or not. Rule 1611 says that the adverse remarks are to be communicated only as finally accepted by the General Manager. This signifies that the General Manager functions as "Accepting Authority".

41. According to para 4(15) of C.A.No.369 of 1990, respondent No.4 was the Reporting Officer and respondent No.5 was the Reviewing Officer. There is no specific

denial in the counters, but para 18 thereof indicates that the Reporting Officer functioned as such in his capacity as Executive Governor of the School. In para 26 of Counter Affidavit in C.A. No.413/90, it is indicated that the General Manager performed the function of accepting the remarks.

42. It will be borne in mind that the applicant as the Principal of the School was also a Junior Administrative Grade Officer. Similarly, respondent No.4 was Executive Governor of the Board of Directors of the School as well as Chief Personnel Officer. Lastly, respondent No.5 was Chairman of the Board of Directors of the School as well as General Manager.

43. The Constitution, Rules and Regulations of the School have not been produced before us and therefore we are unable to say how the inter se official gradation or relationship between the applicant on the one hand and respondents 4 & 5 on the other hand stood.

44. Railway Establishment Code Volume I 1971 Edn. contains Rule 102 Cl(12) which defines a Railway School to be a School established by a Railway directly under the Railway Board. Under the third para to Rule 1615, respondents or Gazetted Officers working in office directly under the Railway Board have to be made out by the "Head of the Office" and sent to Railway Board. Appendix XIV to those Rules read with Rules 106 and 107 show that the Principal of Railways Technical Training Schools/Centres belong to Junior Administrative Grade, with the scale of pay then prevailing for Junior Administrative posts was Rs.1300 - 1600, whereas the post of Chief Personnel Officer was an "Intermediate

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"Administrative Post" in the scale of Rs.1600 - 1800. The General Manager was in a "Senior Administrative Post" carrying a pay of Rs. 2750/-.

45. Putting these provisions together, the applicant's Reporting Officer should have been the "Head of Office", the Reviewing Officer should be the "next higher officer" under Rule 1610 and the Accepting Officer should be the General Manager under Rule 1611.

46. We do not know who is the "Head of the Office" of the applicant, but since both parties concede that the Reporting Officer was respondent No.4, it may be assumed safely that the Executive Governor of the Board of Directors was the Head of Office of the School and could be the Reporting Officer in that capacity. Since the "next higher authority" to a Junior Administrative grade officer was an officer holding an Intermediate Administrative Post, the Chief Personnel Officer would be the Reviewing Officer. Thus respondent No.4, filling both capacities was the Reporting Officer as well as the Reviewing Officer of the applicant. The Accepting Officer was the General Manager throughout, as stated in para 26 of the Counter Affidavit of C.A.No.413/90. The representations against ACRs were decided by the General Manager.

47. The grievance of the applicant is that the General Manager being the "Accepting Officer" was not competent to decide his representations against ACR. The learned counsel for the parties have not placed before us the

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the rules/provisions if any which govern the making
in the ACR
and disposal of representations against adverse entries/
in the case of Railway Servants. Rule 1610 requires
that Section I of the adverse ACR is to be shown to
the officer reported upon who may give comments. The
reporting officer then may make further comments, and
such comments alongwith the comments of the officer
reported upon and the ACR shall be sent to the Reviewing
Officer who will endorse his remarks on the report on
the consideration of the material. Thus, in the
peculiar inter se relationship of the applicant and
respondent No.4, the latter not only initiated the ACR,
but also recorded his remarks as Reviewing Officer (after
considering the representation, if any, made in respect
of Section I of the ACR). The remarks which are finally
communicated are those which have been accepted by the
General Manager as provided in Rule 1611; but the rules
do not specifically provide for a representation against
the remarks so communicated. Obviously, there is no
provision in the Rules as to whom such representation is
to be made or how dealt with. It is well settled that
Rules regarding preparation and maintenance of Confidential
Reports are by way of departmental instructions and are
not statutory rules framed under Article 309 of the
Constitution of India, and that they are intended to
form a general assessment of work for the purposes of
serving as data of comparative merit when questions of
promotion, confirmation etc arise: See R.L.Butail Vs.
Union of India, 1970(2) SCC 876. It is also common
ground that Govt's function in dealing with C.R. is
not quasi judicial but administrative: See S.S.S.Venkata
Rao Vs. State of Orissa 1974(2) SLR 899, a Full Bench

decision of Orissa High Court. It was to be expected therefore that the Rules should have provided for the making of a representation as well as for the procedure for its disposal, but that has not been done.

48. At this stage we may take up the respondents' case that the rules contained in Chapter XVI of the Railway Establishment Code Volume I of 1971 have been done away with when the revised Edition was issued in 1985. Para 2 of the Preface to 1985 Edition Volume I runs as follows :-

"The revised edition of the Code is a self-contained compilation made by rearranging the Chapters of 1971 Edition after simplifying and rationalising the existing rules. The provisions and Chapters included in the present edition, subject to what is stated in Paragraph 3 below, supersede all the rules and orders on the subject contained in 1971 edition to the extent these have been revised and incorporated in this volume."

Para 3 mentions the various paragraphs of 1971 Edn. which has been placed in Volume II or elsewhere or which have been modified or dropped, but there is no mention whatsoever of Chapter XVI of 1971 Edn. Volume II which was published in 1987 records that "the Prefactory Note has been printed in volume I of this Code - 1985 Edition". In the Table of contents of Volume II Chapter 19 purports to deal with "Confidential Reports" at page 117; but page 117 is a blank sheet which carries the heading "Chapter 19" with the words "not printed". While para 2 of the preface to Volume I says that the revised edition is "a self contained compilation", and the provisions

and Chapters included therein "supersede all rules and orders on the subject contained in 1971 Edition", such supersession is confined to the extent these have been revised and incorporated in this volume". The applicant's learned counsel says that the Chapter regarding Confidential reports could be treated to be superseded only if some specific provision was contained in the revised volume itself. If the revised volume I of 1985 stood as it is, there would have no difficulty and it could be held that Chapter XVI of 1971 Edition ceased to be operative from 1985 when the revised volume was issued; but the manner in which the subject was indicated in the Table of Contents and at page 117 of Volume II of 1987 leaves the things in doubt. We are not in a position therefore to hold specifically whether the provisions of Chapter XVI of 1971 Edition are still applicable or not. At the same time, the statement in paras 3 to 5 of the undated Supplementary Counter of Respondent No.4 with application dated 29.4.91 that a Brochure issued by the Govt. of India in the Ministry of Personnel in 1987 on preparation etc. of ACRs "were duly adopted on the Railways in terms of Northern Railway letter No.E-106/0/P-III dated 12.5.87 is not correct because the letter which has now been produced before us does not say so. It only says, inter alia, that ACRs are to be "recorded on the revised C.R. Forms". According to the aforesaid Supplementary Counter, the revised ACR forms are being used since 1987-88. This seems to be correct because the applicant himself has stated in O.A. No.369/90, concerning adverse remarks for the year 1987-88, that for the ACRs of Subordinate Staff due to be recorded in 1987, a new format had been introduced

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which was in the process of printing in first half year of 1987. Hence there is no doubt that since 1987-88, new format for ACRs were adopted, but it cannot be specifically said whether Rules of Chapter XVI of 1971 had also been dropped, although the stand of the respondent that the Brochure of Personnel Ministry had been adopted as per letter dated 12.5.87 is not borne out from that letter.

49. At the same time, the letter of 12.5.87 prescribes the Reporting Reviewing, and Accepting Officer of the various categories. The applicant belongs to the category of "Junior Administrative Grade" officer. Since the Railway School is to be treated as "directly under the Railway Board" vide clause (12) of Rule 102 of 1971 Code (corresponding to clause (42) of Rule 103 of 1985 Edition of the Code), he seems to belong to the category of officers at the "Headquarters". The officer "immediately above him is the Reporting Officer, "The Principal Head of Department" is the Reviewing Officer, and the "General Manager" is the Accepting Officer. So far as the School is concerned, the 'Executive Governor' would be the Reviewing Officer and the General Manager would be the Appointing Officer.

50. In the absence of any specific rules on the subject, an administrative authority taking a final administrative decision is competent to review or revise it. The ban on a judicial or quasi judicial authority to review/revise its own order unless specifically authorised by the Statute except in situation of patent mistake committed by itself, does not apply to purely administrative authorities.

51. To our mind, there is a basic difference in the

nature of the power exercised by a reporting/reviewing officer on the one hand, and the accepting officer on the other hand. As already mentioned, both the reporting and reviewing officers have to record their assessment of the performance and conduct before and after the comments, if any, of the officer reported upon under Rule 1610, while the Accepting Officer has only to record what he accepts in the assessment under Rule 1611. When a representation is made against such an entry, it is really in the nature of a challenge to the assessment made by the reporting and reviewing officers so that the reporting and reviewing officers would not be competent to decide the representation. They could not be judge in their own assessment of the performance of the officer who has mounted a challenge; but the accepting officer is not in the same position. His function is supervisory in nature so that the assessment made by the reporting/reviewing officers is open before him in the style of a review of acceptance. The consideration of a representation by him is in the nature of a 'post-decisional' reconsideration. There is no reason to hold that he would not be competent to make such reconsideration. The decision of a learned Single Member of the Principal Bench of this Tribunal in the case of Tilak Raj Vs. Union of India, 1988(1) ATR 379 holding that consideration of a representation by a reviewing officer "violates the principles of natural justice and equity, apart from the prohibition contained in a circular of the Govt. of India", is distinguishable from the case before us where we are examining the validity of consideration of representation by an accepting officer.

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52. The principles of law which apply to an appeal e.g. a motion to a higher authority do not apply to a representation. Appeal is a creation of statute; it does not flow from the principles of natural justice : See, Ismail Vs. State of Orissa, 1951 Orissa- 86. A representation is a motion for reconsideration by the authority which passes the final order as in a post-decisional reconsideration. Unless the Rules or administrative instructions provide that a representation must be considered by a still higher authority, there is no reason to hold that the final authority is not competent to reconsider its final order. There is no inherent right to approach a superior authority in an administrative matter. At best the superior authority may entertain a motion in its discretion against the inferior authority's decision; but it confers no legal right upon the aggrieved person to move the superior authority. The only judicially recognised remedy in an administrative forum against an administrative decision, is to seek post-decisional reconsideration by the authority which took the decision. If such forum is considered to be incompetent for reasons of bias, then there may be no administrative remedy; the aggrieved person would have only the judicial forum open to him. We hold therefore that the General Manager, respondent No.5, was competent to decide the applicant's representations against the impugned adverse remarks.

53. The learned counsel for the respondents has further pointed out that the representation dated 19.8.88, Annexure-A.14, against the entry for 1987-88 was addressed to the General Manager without any request to forward it to any higher authority, hence he cannot make any grievance

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against its disposal by the General Manager. The contention is valid. Apart from the fact that the General Manager was competent to decide the representation, he was under no obligation to forward it to some other authority.

54. The learned counsel for the respondents has similarly pointed out that the representation dated 21.6.89, Annexure-A.28, against the entry for 1988-89 followed by letter dated 17.10.89, Annexure-A.30 was addressed to "Member Staff" of the Railway Board, and contends that member staff was not the next higher authority competent to decide the representation. *Prima facie*, a member of the Board is not the Railway Board. Learned counsel for the applicant has not been able to show that "member staff" was an authority competent to exercise the powers of the Railway Board in deciding representations.

55. The learned counsel for the applicant next urged that the representations against the adverse entries have been decided through "non-speaking orders". The answer to this contention may be found in a recent decision of the Supreme Court in the case of Union of India & Others Vs. E.G. Nambudiri, JT 1991(2) SC 285. It has been held that in the absence of any statutory rule or statutory instruction requiring the competent authority to record reasons for rejecting a representation against adverse entries, the concerned authority is not bound to record reasons. If reasons exist, which may be gathered from the record, the order rejecting the representation is not vitiated on the ground that reasons for rejection are not recorded. That is the position in the present case.

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56. We may now take up the cases concerning orders of punishment of withholding privilege passes. Annexure-A.16 dated 26.10.88/4.11.88 is a chargesheet for minor penalty under Rule 11 of D.A.R. in the matter of alleged food poisoning of the boys of junior school. Annexure-A.17 dated 27.10.88/4.11.88 is a similar chargesheet for failure to accompany the Minister of State for Railways to the Helipad and for failure to receive the Chairman, Railway Board on the occasion of Centenary Celebrations. On applications Annexure-A.18 and A.19, some documents furnished to the applicant while the rest were not. The applicant furnished replies on 1.12.88. The General Manager passed the punishment orders dated 18.1.89, Annexure-A.24 withholding the passes. The applicant's grievance is that the orders are 'non-speaking'. The order as communicated to applicant simply is that the General Manager did not consider his representations to be satisfactory, hence the applicant was found guilty and punished.

57. When the imputations of misconduct were communicated to the applicant and he was called upon to make his representation, if any, he demanded certain documents. His demand was duly considered and a few documents, which were considered to be relevant, were furnished to the applicant. Although the applicant protested against the non-supply of all the documents demanded by him, the detailed explanations he offered to each of the imputations of misconduct would sufficiently show that he was not, in any way, prejudiced in his defence for want of the said documents.

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58. Learned counsel for the applicant laid lot of stress on the failure of the disciplinary authority to give reasons in the punishment orders. Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968 (DAR Rules) requires that no minor penalty shall be imposed except after taking into consideration the representation, if any, of the Railway Servant and recording a finding on each imputation of misconduct or misbehaviour. The principle that an administrative authority exercising judicial or quasi-judicial functions is required to record reasons for its decision is now well settled. In Mahavir Prasad Vs. State of U.P. AIR 1970 SC 1362, it has been held that recording of reasons in support of a decision by a quasi judicial authority is obligatory as it ensures that the decision is reached according to law and is not the result of caprice, whim or fancy and that the necessity to record reasons is greater if the order is subject to appeal. Reiterating the same view, the Supreme Court in S.N.Mukherjee Vs. Union of India AIR 1990 SC 1984, observed that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

59. There is, however, nothing in the DAR Rules to show that the disciplinary authority is required to record its finding on each charge in any particular manner. All that is required while awarding a minor penalty is that the representation of the Railway Servant should be taken into consideration and a finding is recorded on each imputation of misconduct. The meaning of the term 'finding' as given in Black's

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Law Dictionary is that it is "a decision upon a question of fact reached as the result of judicial examination or investigation by a Court, Jury, referee, coroner etc. The word commonly applies to the result reached by a judge or jury".

60. The impugned punishment orders in both the cases, almost identically worded, simply state that the disciplinary authority, having considered the representation to be unsatisfactory, held the applicant guilty of the charges and having taken into consideration all the facts and circumstances of the case decided to impose the penalty. Such mechanical repetition of stereo-typed phraseology in judicial or quasi-judicial orders has been viewed with disapprobation in Ram Chander Vs. Union of India AIR 1986 SC 1173. That was a case where an appeal under Rule 22(3) of the Railway Servants (Discipline & Appeal) Rules, 1968 was rejected. Commenting on the order rejecting the appeal the Supreme Court observed as under:-

"To say the least, this is just a mechanical reproduction of the Phraseology of Rule 22(3) without any attempt on the part of the Railway Board either to marshall the evidence on record with a view to decide whether the findings arrived at by the disciplinary authority could be sustained or not."

61. On the crucial question whether the punishment order should give reasons even, if it is a case of a minor punishment, we have the decided case of Rawat Chaudhary Vs. State of Punjab 1968 SLR 792. In that

case Punjab Civil Services (Punishment and Appeal) Rules, 1952, Rules 4 & 8 came up for consideration and it was held as under :-

" There is substance in the contention of the learned counsel for the petitioner and this petition must succeed. From the plain reading of the orders of the Director and respondent No.1 it is clear that no reasons whatsoever have been given for arriving at a decision against the petitioner and the impugned orders are scrappy and nebulous. In the present case it was incumbent on the respondents to give reasons while arriving at a decision against the petitioner as they were exercising quasi-judicial functions and in not doing so they have acted illegally. The decision of the Supreme Court in Bhagat Raja Vs. Union of India and Others AIR 1967 SC 1606, is fully applicable to the facts of the present case.

In view of the clear dictum of their Lordships in Bhagat Raja's case, there is no shadow of doubt left that the impugned orders are illegal and must be quashed. I am unable to persuade myself to accept the contention of the learned counsel for the State that any action taken under Rule 8 does not require the authority to pass a speaking order. The learned counsel had ignored the provisions of Rule 4; under this Rule, a penalty can be imposed upon members of the services only if good and sufficient reasons are shown. The existence of good and sufficient reasons can only be found out from the reading of the orders which admittedly do not exist in the present case."

62. We have already referred to the decision of the Supreme Court in the case of Union of India & Others Vs. E.G. Nambudiri in para 55 (supra). Accordingly, we

desired to examine the relevant record to ascertain whether or not the disciplinary authority in the instant case had applied his mind to the representations of the applicant before deciding upon the award of the punishments. Despite giving ample opportunity for the production of the records, the learned counsel for the respondents has not been able to show the same to us.

63. We therefore hold that both punishment orders dated 18.1.89 in O.A. No.327/90 and O.A. No.403/90 are liable to be quashed, and we direct accordingly. The respondents are at liberty to proceed further in the matter of these two disciplinary orders in accordance with the law.

64. Turning to the final, yet the most important issue of the compulsory retirement of the applicant with effect from 1.3.90 under the provision of Rule 1802(a) of the Indian Railway Establishment Code Volume II 1987 Edition, we find that the main grounds of attack in O.A. No.184/90 by the applicant are that firstly the impugned order of retirement was the result of bias on the part of the Chairman, Railway Board; secondly the entire record of service of the applicant should have been taken into consideration and thirdly the punishment orders against which his appeals were pending should not have been held against him in coming to a decision to terminate his services prematurely. As regards the allegation of bias on the part of the Chairman, Railway Board we have already held in para 23(supra) that it deserved to be rejected.

65. Rule 1802 (a) of the Indian Railway Establishment Code, Volume II, 1987 Edition, empowers the appointing authority if it is of the opinion that it is in the public interest to do so to retire a railway servant of the category to which the applicant belonged and who has attained the age of 55 years by giving him a 3 months' notice. The applicant's date of birth being 13.12.1934, the applicant attained the age of 55 years on 13.12.1989. We have been shown by the learned counsel for the respondents, the entire record of the Review Proceedings held by the Full Board of the Railway Board during January and February of 1990 culminating in the decision to retire the applicant in the public interest. A careful examination of the Review Proceedings would reveal that the applicant's case was subjected to a thorough, proper and objective examination and analysis, before the decision was arrived at. As per extant guidelines, the Annual Confidential Reports of the applicant for the preceding five years were taken into consideration. We also find that besides the Confidential Reports, the two disciplinary punishments awarded to the applicant on 18.1.89 were also kept in view by the Railway Board in arriving at their decision.

66. We can find no legal or other flaw in the manner in which the applicant's case for premature retirement was processed. However, in view of our observations as contained in para 30 (supra) directing a portion of expunction of the adverse remarks from the Confidential Report for the year 1988-89, and our directions for the quashing of both the punishment orders dated 18.1.89, the order of compulsory retirement cannot be sustained. We, therefore, quash the impugned retirement order dt.1.3.90 (Annexure-A.1 in O.A. No.184/90). We have already stated

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that the respondents are at liberty to proceed against the applicant on the chargesheets already served upon him. Similarly, it will be permissible for the respondents to examine *de novo* the question of prematurely retiring the applicant in accordance with the Rules.

67. We have carefully examined the file (No. E(0)I-88/SR-10/36) containing the record of the review proceedings held to decide the question of premature retirement of the applicant under Rule 1802 of Indian Railway Establishment Code Volume I, 1987 Edition (Rule 2046 of Edn). It is apparent from the notings that as per extant guidelines, the assessment in the preceding 5 years has to be converted *into* points and the employee's case processed applying the following yardstick :-

- (a) Officers having 11 points or below are not to be retained in service;
- (b) Over 11 points but less than 14 is the grey area; and
- (c) Officers having 14 and above are to be retained in service unless the points for the last 3 CRs upto 6 points and below.

68. Applying the above yardstick, the applicant's ACRs of the preceding 5 years were given the weightage of 13 points, that is, the case of the applicant belonged to the grey area referred to sub para (b) above. In view of our findings that some adverse remarks in the ACR for the year 1988-89 will have to be expunged and the disciplinary punishments dated 18.1.89 (which too were taken into consideration during the review) were to be quashed, there is every justification for the reinstatement of the applicant in service.



69. O.A. No.369/90 is dismissed. 42

70. O.A. No.413/90 is partly allowed and para 5 of the remarks for the year 1988-89 contained in Annexure-A.29 is struck down.

71. O.A. No.327/90 is allowed and the punishment order dated 18.1.89 contained in Annexure-A.23 is set aside. O.A. No.403/90 is also allowed and the punishment order dated 18.1.89 contained in Annexure-A.24 is set aside. It shall be open to the appropriate authority to pass a final speaking order on a consideration of the replies already submitted by the applicant to the minor penalty chargesheets dated 27.10.88/4.11.88, Annexure-A.17 and 28.8.88, Annexure-A.16.

72. O.A. No.184/90 is allowed and the impugned order dated 1.3.90, Annexure-A.1 communicated by letter dt.2.3.90 Annexure-A.2 of compulsory retirement of the applicant is set aside. It is directed that the applicant shall be deemed to have continued in service as Principal of the Oak Grove School and that the respondents shall reinstate him without delay and award him such consequential benefits as he may be entitled to under the applicable rules. It shall be open to the respondents to re-examine the case for compulsory retirement of the applicant bearing in mind the observations contained in the body of this judgement.

73. Parties shall bear their costs of all these cases.

Vice Chairman

Passenger Member (A)

Vice Chairman

Dated the 22 Aug., 1991.

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