

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 13th day of January 2000.

Original Application no. 712 of 1992.

Hon'ble Mr. Rafiq Uddin, Judicial Member

Hon'ble Mr. M.P. Singh, Administrative Member.

Chandra Shekhar,
S/o Shri Har Prasad,
R/o House no. 54, Khatriyana,
Jhansi.

... Applicant.

C/A Shri R.K. Nigam

Versus

1. Union of India through,
General Manager,
Central Railway,
Bombay VT.
2. Divisional Railway Manager,
Central Railway,
Jhansi.
3. Dr. B.K. Srivastava,
Ex-Chief Medical Superintendent,
Jhansi,
C/o C.M.O. Bombay, V.T.

... Respondents.

C/R Shri G.P. Agrawal.

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ORDER

Hon'ble Mr. Rafiq Uddin, Member-J.

The applicant has approached this Tribunal to issue direction to respondents nos 1 and 2 to reinstate the applicant in service and also to quash the order dated 22.05.1990 whereby the applicant has been voluntarily retired. The applicant belongs to the post of Railway Driver Grade 'A' under D.R.M. Central Railway Jhansi (respondent no. 2). The applicant moved application dated 19.03.1990 (Annexure CA 2) seeking voluntarily retirement with immediate effect. It appears that the respondents acceded his request and granted voluntarily retirement with effect from 20.05.1990.

2. The present O.A. has been filed seeking quashing of the order of voluntarily retirement on the ground that the applicant was wrongly declared 'Diabetes' patient by the Railway Doctor. After he was declared Diabetes patient he got his Medical Check up done by C.M.S. Jhansi, in which C.M.S. certified that the applicant was ^{not} suffering from Diabetes. It is also the case of the applicant that he was also examined by the Railway Hospital, Central Railway, Bombay, and as per report dated (NIL) he was not found suffering from Diabetes, When he was referred by C.M.S. Central Railway, Jhansi for medical check up. According to the counsel he was compelled by the Railway Authorities to move application seeking voluntary retirement. In view of conflicting medical reports, therefore, the order is liable to be quashed as illegal.

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3. The case has been contested by the respondents and it has been stated that the applicant was never referred to Maharani Laxmi Bai, Medical Collage, Jhansi. The applicant was not found fit for his original job namely Railway Driver Grade 'I' by the Railway Medical Board. It is also contended that the C.M.S. Byculla, Central Railway, also confirmed that the applicant was Diabetes patient. The applicant was also called to appear before Medical Board at Bombay but ~~he~~ ^R and preferred the application before administration seeking voluntary retirement. Since the applicant himself requested for voluntary retirement, the same was accepted by the Competent Authority and he failed to appear before Medical Board on 02.02.1990.

4. We have heard Shri U. Nath proxy to Shri R.K. Nigam learned counsel for the applicant and Shri G.P. Agrawal learned counsel for the respondents and perused the record.

5. At the out set it is pertinent to mention that the applicant has earlier filed an O.A. before this Tribunal ^{being} ~~being~~ NO seeking settlement of his retirement dues and also appointment on compassionate ground of his son. This Tribunal vide order dated 10.12.90 (annexure 6 to the OA) directed the respondents to dispose of the representation dated 09.01.90 for payment of retiral dues within 45 days. As regards the appointment on compassionate ground, the applicant was directed to move fresh application. It is clear that the applicant had not challenged the order of his voluntary retirement in the previous O.A. On the other hand he sought relief ^R ^R

payment
R ~~money~~ of his retiral dues only. It appears that the present O.A. is an after thought in which validity of the order of retirement has been challenged. There is no dispute that all the retiral dues have been paid to the applicant by the respondents.

6. We have also considered the present O.A. on merit. We do not find any meterial on the record to prove that the applicant was pressurised to seek voluntary retirement. The applicant was duly medically examined by the Medical Board and ~~there~~^{Ru} he was found suffering from Diabetes and as a result he was unfit to work as Railway Driver Grade 'A'. As regards the allegation, that the Medical Officer of Maharani Laxmi Bai, Medical Collage, Jhansi, did not find, the applicant suffering from Diabetes, the applicant has merely filed a photo copy of OPD certificate of one Shri Chandra Shakher. Similarly a photo copy of alleged letter written by C.M.S. Byculla addressed to C.M.S. Jhansi (annexure A 3) is also not of any use to prove the contention of the applicant that the applicant was suffering from Diabetes because it does not bear any date nor it has been prepared by any Board of ~~some~~^{Ru} Medical Officer.

7. In view of the above discussion we do not find any merit in the present O.A. and the same is dismissed. No order as to costs.

MBP
Member-A

Rafi Uddin
Member-J