

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH
ALIAHABAD.

O.A. NO. 716 of 1992

Sri Govind PrasadApplicant.

Versus

Union of India & others ...Respondants.

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

Hon. Mr. V.K.Seth, A.M.

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

This application is directed against the order passed by the Under Secretary to the Government of India, Ministry of Defence New Delhi dated 6th May,1992 for compulsory retirement.

2. The applicant started working as Temporary Storeman on 1.1.1960 and subsequently, an order for appointment was issued on 22.9.1961. In the year 1963, the applicant was confirmed to the post of Storeman, The applicant was promoted as Store Superintendent in 1968 on the basis of hard, godd and sincere working and subsequently he was again promoted as Senior Store Superintendent. The applicant has maintained is meritorious service record and therefore, he was given promotion as Ordinance Officer Civilian(Store) in the

year 1985. There after he was promoted as Officiating Civilian Labour Officer (O C L O) at Pune. From 1986 to 1988 the applicant rendered his service at Pune as Civilian Labour Officer (C.L.O) on adhoc basis. The applicant was also sent for training of C L O with a view to be promoted as C L O after getting the training. The applicant was always got promotion and regular increments. The last increment of Rs.75/- was given to the applicant on 1.5.1992. Only five days thereafter an order for giving compulsory retirement to the applicant has been passed by the Under Secretary to the Government of India and the applicant has challenged this order intending that the impugned order has been passed arbitrarily and in violation of the equity, good conscience and natural justice. The applicant who was working with all sincerity was deprived of his services and hence the applicant has approached this tribunal.

3. It has been stated that the applicant was appointed as C L O by the Ministry of Labour only, and as such the question does not arise to appoint in Parent Deptt. the applicant as C L O. Therefore, the averments made in the application are factually incorrect and not tenable. The fact is that the competent authority approved the premature retirement of the applicant in the public interest under

F.R.56(J) on the basis of his entire service record, and as such there was no question of violating the CCS(CCA) Rules. In this reference no material against the applicant has been pointed out in the counter affidavit and no explanation has been given as to why the applicant has been retired from his services. As per the affidavit filed by the applicant, the applicant was given adverse remarks as below average in the year 1990-91 and it appears that on the basis of the adverse remarks, the competent authority came to the conclusion that premature retirement has been given to the applicant while in the year 1991-92 the applicant was allowed to cross E.B. which goes to show that the applicant was efficient and the competent authorities have erred in passing the compulsory retirement order. The adverse remarks made against the applicant was never communicated to him which under the rules were communicated to him. In this connection, a reference has been made, State of Punjab v. Dewan Chunni Lal 1970 (S C C) 479, wherein it has been held if a person is allowed to cross efficiency bar only a few months before his compulsory retirement and hence the order

W

of compulsory retirement was bad in law.. According
~~to the compulsory retirement, constituted instruc-~~
~~tions Chapter VII~~ Premature retirement can be
given if his integrity is doubtful and is found
ineffective. In case of the applicant, the appli-
cant was allowed to cross the efficiency bar
only five days prior to the date of the order
of compulsory retirement and he could not have
been retired on the basis of the adverse remarks
as below average which was not communicated to him
and it may be that the decision was taken by the
competent authority to teach him a lesson and there-
by to give him punishment.

4. Accordingly in such circumstances, the
applicant shall be deemed to be continued in
service of the respondents as before till he
reaches the age of retirement i.e. 58 years, and
the applicant will be retired from the services
according to law. There will be no order as to the
cost.


MEMBER (A)


VICE CHAIRMAN

DATED: ALLAHABAD APRIL 12, 1993.

(Is)