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HON'BLE MR MAHARAJDIN, MEMBER-J  
HON'BLE MR V K SETH, MEMBER-A

( By Hon'ble Mr maharajdin, Member-J )

30 12 95 or 31 12 95.

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shown that the applicant has to be retired from service with effect from 31 03 1993 (Annexure A-7). It has been also pleaded that according to Railway Board's Circular dated 18 12 1982 the applicant should be retired on attaining sixty years being class IV employee.

The respondents filed Counter Reply and resisted the claim of the applicant inter alia on the grounds that the date of retirement of the railway employee is 58 years. It is further stated that at the time when the applicant entered in the service he had given out his date of birth as 1935 only, so accordingly his date of birth in the service record has been entered as 1935.

We have heard the learned counsel for the parties and perused the record carefully.

The applicant has stated that at the time of his appointment he has given out his date of birth as 30-12-1935. So accordingly his date of retirement falls on 31 12 1993. The assertion of the applicant has been emphatically denied by the respondents and it is said that the applicant at the time of his appointment had told the year i.e. 1935 only as the date of birth and could not give the date and month, therefore, accordingly in the service record (Annexure - CA 1) his date



of birth was written as 1935. The date of birth recorded in the service record (Annexure CA-1) has been duly acknowledged by putting his signature on Annexure CA-1, in presence of two witnesses whose signatures are appended therein. The applicant failed to produce any certificate regarding his exact date of birth. The applicant filed an affidavit dated 13 08 1991 (Annexure A-2) representing for correction of his date of birth wherein he deposed that he derived information from his parents that he was born on 30 12 1935. The representation submitted by the applicant together with the aforesaid affidavit was not supported with any documentary evidence about his exact date of birth. The applicant entered in the service in the year 1956 whereas he submitted representation for correction of the date of birth as late as in the year 1991. The applicant has produced seniority list (Annexure A-1) in which his date of birth is shown as 1935 only. This seniority list was published on 14 09 79 which mean that the applicant knew that his date of birth in the service record was recorded as 1935 only, but he failed to make any effort for correction of the date of birth. The Railway Administration also had issued circular time to time issued by the Railway Board asking the employees

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to request for correction of the date of birth, but the applicant failed to take timely steps. The respondent has referred Rule 225 of the Railway Establishment Manual which reads as under :-

"225. Date of birth -(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant.

(2) A person who is not able to declare his age should not be appointed to railway service.

(3) (A) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g. if a person enters service on 1st January 1980, and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1962.

(B) When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth."

So considering the provisions of this Rule the respondents have rightly proposed to retire the applicant on 30 06 93 on having attained the age of superannuation. This action of the respondents cannot be termed as unjust as stated by the applicant.

The another aspect of the case is whether the date

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of retirement of Class IV railway employee is 58 years or 60 years ? The applicant has stated that the age of retirement of Class IV railway employee is sixty years and for this purpose circular No.3206 (E P S A)-I-82 dated 18 12 1982 is referred, which reads as under :-

" A railway servant in class IV service of post who prior to 1.12.1962, was entitled to serve upto age of 60 years including the New entrants to those categories shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. "

Thus according to the applicant the provision for retirement of CLASS IV employees has provided in "Chapter IX Part (1) General" of Fundamental Rules and Supplementary Rules. The relevant extract of Rule 3(C) is reproduced as under :

" 3(c) A Government in class IV service or post shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. "

The rules quoted as above by the applicant are not correctly interpreted as in the original circular letter No.803F/9-4/ (F-4) dated 06-12-1962 by which these provisions were circulated and in para 2(ii) it is mentioned :

" There are no class-IV staff employed in this railway who would be covered in para 2(ii) above, Besides, compeldium of rulings - F.R.-56 in appendix XXX under caption "Railway Board's Order observes as under :-

' In the case of Class-IV servants and labourers including Workshop employees who were permanent Railway servants on 31st July 1940, the then existing practice

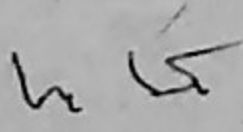
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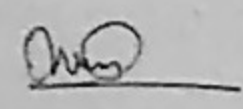


will continue in regard to the age of compulsory retirement of such employees, class IV Railway servants and labourers including Workshop employees who entered in Railway service on or after 1st August 1940 or who were temporary railway servant on that date will be required to retire on attaining the age of 55 years, which has been extended upto 58 years. "

Admittedly the applicant entered in the service on 01 01 1956, therefore, he is not entitled to get benefit of the above mentioned Circular Letter. It is clearly borne out from this Circular Letter dated 06 12 1962 that there are no Class IV employed in this railway <sup>Service</sup> Board be covered by para 2(II) of the Circular. We, therefore, hold that the age of retirement of the railway Class IV employee is 58 years.

In view of the discussions made above, We find no merit in the application of the applicant which is hereby dismissed with no order as to cost.

  
MEMBER-A

  
MEMBER-J

Dated: Allahabad, July 5<sup>th</sup>, 1993.  
(VKS PS)