

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 03RD DAY OF JULY, 2009)

PRESENT

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS MANJULIKA GAUTAM MEMBER- A

ORIGINAL APPLICATION NO. 866 OF 2002.
(U/S 19, Administrative Tribunal Act, 1985)

H.N Sharma, S/o Late R.N Sharma, R/o E-27/A North Colony,
Bareilly Junction, District Bareilly.

.....Applicant

By Advocate: Shri Anoop Trivedi
Shri A.D. Singh (Amicus Curae)

Versus

1. Union of India through Secretary, Ministry of Railway
Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Northern Railway's Baroda House, New
Delhi.
3. Divisional Railway Manager, Northern Railway, Moradabad.
4. Additional Divisional Railway Manager, Northern Railway,
Moradabad.
5. Senior Medical Superintendent, Northern Railway,
Moradabad.

.....Respondents

By Advocate: Shri Amit Sthalekar

O R D E R

(Delivered by : Justice A.K. Yog, Member -Judicial)

Shri Anoop Trivedi, learned counsel for the applicant has
sent illness slip, reads:-

"To
The Bench Secretary
Court No.1
C.AT., Allahabad.

Subject: O.A No.866/2002, H.N Sharma Vs. U.O.I and
Others.



Sir,

The captioned matter is listed at Sl. NO. 3 in the daily cause list today.

I am indisposed today and unable to attend the Court.

Kindly make request to the Hon'ble Court for passing over the case today.

I shall be obliged.

Sd/- illegible

Sl. No. 3
3.7.2009".

2. Above-noted O.A. was filed in the Registry on 30.7.2002, seeking to challenge order of compulsory retirement (as punishment) dated 19.2.2002 and 28.12.2001. It has come on record that the Applicant has attained age of superannuation somewhere in mid 2002.

3. For convenience, we reproduce entire ordersheet of this case:-

(i) 07.08.2002
Hon' Mr. S. Dayal (A.M)
Hon' Mr. A.K. Bhatnagar (JM)
Advocates are on strike. None appeared. List on 26.08.2002.

BOC
Sd/"

(ii) 26.8.2002
Hon' Mr. Justice R.R.K Trivedi, V.C.
Hon' Maj. Gen. K.K. Srivastava, A.M
Adjourned for the day on account of illness slip of Shri A.K. Gaur, counsel for the Respondents. List on 3.10.2002.

Sd/
AM

Sd/
VC"

(iii) 3.10.2002
Hon' Mr. S. Dayal, A.M
Hon' Mr. A.K. Bhatnagar, J.M
None is present for the applicant. Shri Saumitra Singh brief holder of Shri A. Sthalekar, learned counsel for the respondents seeks four weeks time to file counter reply. Learned counsel for the applicant shall have 2 weeks time thereafter to file rejoinder.

List this case for admission on 25.11.2002.

Sd/
J.M

Sd/
A.M"

(iv) 25.11.2002
Hon' Mr. Justice R.R.K Trivedi, V.C
Hon' Maj. Gen. K.K. Srivastava, A.M

[Signature]

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List has been revised. None is present for the applicant. Shri Subhash Gosain holding brief of Shri M.B Singh, counsel for the respondents is present. The O.A is dismissed in default. No order as to costs.

Sd/
J.M

Sd/
V.C

(v) 29.4.2003

Hon'ble Maj. Gen. K.K. Srivastava, A.M

Hon'ble Mr. A.K. Bhatnagar, J.M

Shri V. Rana, holding brief of Shri Anoop Trivedi, learned counsel for the applicant and Shri S.K. Pandey holding brief of Shri A. Sthalekar learned counsel for the respondents are present.

Learned counsel for the applicant appeared and submitted that since the name of Shri A. Tripathi, has been printed in the cause list, Shri Trivedi, could not be informed about the listing of the case. Registry to print the name of applicant's counsel correctly. List for orders on 28.5.2003.

Sd/
J.M

Sd/
A.M"

(vi) 28.5.2003

Hon'ble Mr. Justice R.R.K Trivedi, V.C.

Hon'ble Mr. S.K. Agrawal, A.M

On the request made on behalf of Shri Anoop Trivedi, counsel for the applicant, adjourned for the date.

List on 04.08.2003.

Sd/
A.M

Sd/
VC"

(vii) 04.08.2003

Hon' Maj' Gen. K.K. Srivastava, A.M.

Hon. Mrs. Meera Chhibber, J.M

Shri P.K. Pandey brief holder of Shri Anoop Trivedi, counsel for the applicant requests for adjournment as Mrs. Trivedi is hospitalized at Lucknow and Shri Trivedi has gone out. Shri S.K, Pandey brief holder of Shri Amit Sthalekar, counsel for the respondents is present. Adjourned.

List on 15.09.2003.

Sd/
J.M

Sd/
A.M"

(viii) 15.09.2003.

Hon'ble Maj. Gen. K.K. Srivastava, A.M

Hon'ble Mr. A.K. Bhatnagar, J.M

Shri Vikrant Rana brief holder of Shri Anoop Trivedi counsel for the applicant. Shri Anil Dwivedi, brief holder of Shri Amit Sthalekar, counsel for the respondents.

M.A. 902/03 is for condoning the delay in filing the restoration application. Counsel for the applicant submits that the said order was served on the applicant through registered post on 31.01.2003. The submission of the applicant appears to be correct as per the remarks of the registry on the true copy, which has been attached alongwith restoration application. Thus, there is delay of just 2 days, which has been explained. We are satisfied with the same and we condone the delay in filing the restoration application.

M.A. NO. 903/03 is for recalling the order dated 25.11.2002 and to restore the O.A., to its original number. Order dated 15.11.2002 is recalled, O.A. is restored to its original number.

Learned counsel for the respondents submitted that counter has been served on the applicant and the same will be filed in the registry during the course of the day.

Counsel for the applicant prays for and granted 4 weeks and no more time to file rejoinder. O.A. is admitted for hearing.

List for hearing on 27.11.2003.

Sd/
J.M

Sd/
A.M"

(ix) 12.5.04

Hon. Mrs. Meera Chhibber, J.M

Hon. Mr. S.C. Chaube, A.M

None for the applicant even in the revised call.

Shri Amit Sthalekar for respondents.

It seems that counsel for the applicant is not interested in prosecuting the case any longer. Accordingly, O.A. is dismissed in default and for non-prosecution.

Sd/
A.M

Sd/
J.M"

(x) 26.07.04.

Hon. Mrs. Meera Chhibber, J.M

Put up before Division Bench on 15.09.04.

Sd/"

(xi) 15.9.04

Hon. Mr. Justice S.R. Singh, V.C

Hon. Mrs. Roli Srivastava, A.M

The case was dismissed in default on 12.5.04.

None appears to press this restoration application.

The same is accordingly dismissed in default.

Sd/
A.M

Sd/
VC"

[Signature]

(xii) 06.12.04.

Hon. Mrs. Meera Chhibber, J.M

Hon. Mrs. Roli Srivastava, A.M

At the request of applicant's counsel, list this case on 17.01.05.

Sd/
A.M

Sd/
J.M"

(xiii) Dt. 16.02.05

Hon. Mr. Justice S.R. Singh, V.C.

Hon. Mr. S.C. Chaube, A.M

At the request of Shri Anoop Trivedi, counsel for applicant, case is adjourned for 07.03.05. Case shall be listed showing name of Shri Anoop Trivedi instead of Shri A. Tripathi as counsel for applicant.

Sd/
A.M

Sd/
VC"

(xiv) 24.5.05.

Hon. Mr. A.K. Bhatnagar, J.M

Hon. Mr. D.R. Tiwari, A.M

Shri P.K. Pandey for Shri A. Trivedi for applicant seeks adjournment. The case is adjourned for the day.

List on 29.7.05.]

Sd/
A.M

Sd/
J.M"

(xv) 29.7.05

Hon. Mr. A.K. Bhatnagar, J.M

Hon. Mr. S.P. Arya, A.M

Shri A. Trivedi, has sent his illness slip. Adjourned to 8.9.05.

Sd/
A.M

Sd/
J.M"

(xvi) 08.09.2005.

Hon. Mr. A.K. Bhatnagar, J.M

Hon. Mr. D.R. Tiwari, A.M

On account of illness slip of Shri Anoop Trivedi, the case is adjourned to 21.10.05.

Sd/
A.M

Sd/
J.M"

(xvii) 19.01.06.

Hon'ble Mr. A.K. Bhatnagar, J.M

Hon'ble Mr. A.K. Singh, A.M

Adjourned for the day on account of illness slip of Shri A. Trivedi counsel for the applicant.

List on 8.3.06.

Sd/
A.M

Sd/
J.M"

[Signature]

(xviii) 8.3.2006.

Hon'ble Mr. A.K. Bhatnagar, J.M

Hon'ble Mr. A.K. Singh, A.M

After hearing for some time, the Members of the Bar mentioned that Shri Kailash Narain, Advocate has expired today; he was the father of Shri S. Narain, who is a practicing lawyer of this Court. All the lawyers want to participate in the funeral ceremony of Shri K. Narain so it is not possible to conduct the cases in the absence of counsel of both sides. Adjourned.

List on 24.4.2006.

Sd/
AM

Sd/
J.M"

(xix) 24.4.2006.

Hon'ble Mr. Justice Khem Karan, V.C.

Hon'ble Mr. A.K. Singh, A.M

On account of illness slip of Shri Anoop Trivedi counsel for the applicant, the case is adjourned.

Shri S.K. Pandey holding brief of Shri A. Sthalekar counsel for the respondents is present.

List on 26.5.2006.

Sd/
A.M

Sd/
VC"

(xx) Dt. 31.07.06.

Hon. Mr. A.K. Singh, A.M

Hon. Mr. K. Elango, J.M

Shri Anoop Trivedi, counsel for the applicant has sent illness slip.

List on 27.09.2006.

Sd/
J.M

Sd/
A.M"

(xxi) 22.11.06

Hon. Dr. K.B.S. Rajan, J.M

Hon. Mr. P.K. Chatterji, A.M

Shri Anoop Trivedi, learned counsel for the applicant has sent illness slip. None for the respondents.

List for orders on 30.11.06.

Sd/
A.M

Sd/
J.M"

(xxii) 30.11.06

Hon. Mr. Justice Khem Karan, V.C

Hon. Mr. P.K. Chatterji, A.M

List revised. None appears for the applicant to press the restoration application.

[Signature]

Restoration Application is rejected in default.

Sd/
A.M

Sd/
V.C".

(xxiii) 9.2.2007.

Hon. Mr. Justice Khem Karan, V.C.

Hon'ble Mr. K.S. Menon, A.M

Shri P.K. Pandey holding brief of Shri A. Trivedi appears for the applicant.

Shri Santosh Pandey holding brief of Shri A. Sthalekar, counsel for the respondents prays for and granted two weeks time for filing objection to the restoration application.

List on 15.3.2007 for orders.

Sd/
A.M

Sd/
V.C".

(xxiv) 01.05.07

Hon. Dr. K.B.S Rajan, J.M

Hon. Mr. K.S Menon, A.M

Shri Anoop Trivedi, counsel for the applicant has sent illness slip. Adjourned. Shri S.K. Pandey holding brief of Shri A. Sthalekar, counsel for the respondents is present.

List on 04.06.07.

Sd/
A.M

Sd/
J.M".

(xxv) 27.07.07

Hon. Mr. Ashok S. Karamadi, J.M

Hon. Mr. K.S Menon, A.M

Shri A. Trivedi counsel for the applicant has sent illness slip. Shri R.C. Shukla brief holder to Shri Saumitra Singh counsel for the respondents is present. List this case on 27.8.07 for orders.

Sd/
A.M

Sd/
J.M".

(xxvi) 21.11.07

Hon. Mr. Justice Khem Karan, V.C.

Hon. Mr. P.K. Chatterji, A.M

Shri Anoop Tripathi learned counsel for the applicant has sent illness slip. Shri Saurabh brief holder of Shri S. Singh for the respondents.

List for orders on 17.12.07.

Sd/
A.M

Sd/
VC".
Qus

(44)

(xxvii) 17.12.07

Hon. Mr. G. George Parachen, J.M

Hon. Mr. K.S. Menon, A.M

As Shri A Trivedi, counsel for the applicant has sent illness slip. Adjourned to 20.1.08 for orders.

Sd/
A.M

Sd/
J.M".

(xxviii) 21.1.08

Hon. Mr. A.K. Gaur, J.M

Hon. Mr. Shailendra Pandey, A.M

Shri Anoop Trivedi learned counsel for the applicant has sent illness slip. Shri S.K. Pandey brief holder of Shri A. Sthalekar learned counsel for the respondents.

It is seen from the records that the applicant's counsel has illness slip on 22.11.07 and earlier also. Today when the case was called, it was reported by the Bench Secretary that he applicants counsel has sent illness slip.

List this case on 23.1.08. The case will not be adjourned on the next date parties counsel are also directed to file written arguments if they so advised.

Sd/
A.M

Sd/
J.M".

(xxix) 23.1.08

Hon. Mr. A.K. Gaur, J.M

Hon. Mr. Shailendra Pandey, A.M

It is stated that Shri Anoop Trivedi counsel for the applicant is not well today and he has sent illness slip.

Accordingly we adjourn this case. Case is directed to be listed after two weeks.

Shri S.K. Pandey holding brief of Shri A. Sthalekar is present for the respondents.

List on 20.2.08.

Sd/
A.M

Sd/
J.M".

(xxx) 20.02.08.

Hon'ble Mr. Justice A.K. Yog, J.M

Hon'ble Mr. K.S Menon, A.M

Illness slip of Shri Anoop Trivedi, counsel for the applicant. List the case on 22.04.08 for orders.

Sd/
A.M

Sd/
J.M".

Ans

MS

(xxxix) 22.4.2008

Hon. Mr. Justice Khem Karan, V.C.

Hon. Mr. N.D. Dayal, A.M

Shri A. Trivedi, counsel for the applicant has sent illness slip.

Shri S. Singh counsel for the respondents is on general adjournment.

List on 14.5.2008.

Sd/
A.MSd/
VC".(xxxix) 14.5.08

Hon. Mr. Justice A.K. Yog, J.M

Hon. Mr. K.S Menon, A.M

Adjourned. List on 10.7.08.

BOC

(xxxix) 10.7.2008

Hon. Mr. N.D. Dayal, A.M

Hon. Mr. Ashok S. Karamadi, J.M

Sri Anoop Trivedi counsel for the applicant has sent illness slip.

List on 25.08.08.

Sd/
J.MSd/
A.M".(xxxix) 25.8.08.

Hon. Mr. A.K. Gaur, J.M

Hon. Smt. M. Gautam, A.M

Counsels of both the parties have sent illness slip.

List on 22.9.08.

Sd/
A.MSd/
J.M".(xxxix) 22.9.08

Hon. Mr. Justice A.K. Yog, J.M

Hon. Mrs. Manjulika Gautam, A.M

On the illness slip of Sri A. Trivedi, counsel for the applicant, the case is adjourned.

List on 3.11.08.

Sd/
A.MSd/
J.M".(xxxix) 19.1.2009

None present.

List this case on 4.3.2009.

Sd/
A.MSd/
VC".

Ar

26

(xxxvii) 4.3.09

Hon. Mr. A.K. Gaur, J.M

Hon. Mr. S.N Shukla, A.M

Shri Anoop Trivedi, counsel for the applicant
has sent his illness slip. Adjourned. List on 30.4.09.

BOC"

(xxxviii) 30.4.09

Hon. Mr. A.K. Gaur, J.M

Hon. Mr. S.N Shukla, A.M

On the illness slip sent by Shri A. Trivedi,
Advocate, case is adjourned to 3.7.09.

Sd/

A.M

Sd/

J.M".

(Underlined to lay emphasis)

The ordersheet of the case is self explanatory.

4. From aforequoted ordersheet, it is also clear that on various dates Shri Anoop Kumar, Advocate had handed over brief other counsel to appear as 'brief holder' and hence he need not appear himself and could co-operate with the Tribunal in final decision of O.A. and hence he need not appear himself and could co-operate with the Tribunal in final decision of O.A. Order dated 21.1.2008 clearly observed that ".....case will not be adjourned on the next date....." The Tribunal has given longest rope and maximum latitude to accommodate the applicant and his counsel but there has to be an end to it. In view of the above, we find that case may not be adjourned and the same deserves to be decided on merit, particularly in view of the objection raised on behalf of the Respondents.

5. We appoint Shri A.D. Singh as Amicus Curae to assist the Court at this stage. Shri S.C. Mishra, Senior Central Government Standing Counsel pointed out that the applicant has not filed rejoinder affidavit and even though counter affidavit was served in the year 2003 that the applicant has already superannuated long

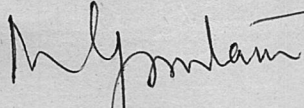


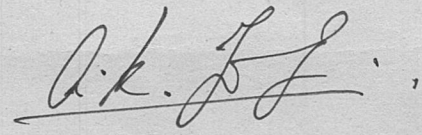
back, it can be safely informed/presumed that the applicant is not more interested to pursue present O.A. and that to decide the O.A. on merit shall not be nothing but with a futile exercise. We are in full agreement with the learned counsel for the respondents.

6. Shri A.D. Singh, Advocate is unable to show anything to controvert the submission of the learned counsel for the respondents, but we appreciate the assistance rendered by Shri A.D. Singh, Advocate also. No costs.

7. O.A dismissed as infructuous. No order as to costs.

8. Copy of the order shall be sent to applicant since his counsel is not present.


Member (A)


Member (J)

Manish/-