

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 297/90
T.A.NO.

DATE OF DECISION 29-4-1997

Shri Bachubhai R.Rada Petitioner

Mr.P.H.Pathak Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mrs.B.Sataya Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Radhakrishnan : Member (A)

The Hon'ble Mr. T.N.Bhat : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

Shri Bachubhai R. Pada
Opp. Police Line,
Jamgodhpur.

: Applicant

(Advocate: Mr. P. H. Pathak)

Versus

1. Union of India
Notice to be served through
Chief Post Master General
Gujarat Circle, Navrangpura,
Ahmedabad.
2. Superintendent of Post Office,
Porbandar Division,
Porbandar-360375.
3. Chairman,
Representation Committee
of Directorate (Post)
New Delhi-110 001.

: Respondents

(Advocate: Mrs. Safaya)

: J U D G M E N T :

O.A.297/90

Date: 29-4-1997

Per: Hon'ble Mr. V. Radhakrishnan : Member (A)


Heard Mr. P. H. Pathak and Mrs. Safaya, the
learned counsels for the applicant and the
respondents respectively.

2. The applicant has approached this Tribunal
claiming for the following reliefs:-

- "(A) The Hon'ble Tribunal be pleased to
declare the impugned order of
compulsory retirement dated 24.7.87,
as illegal, invalid and inoperative
in law and be pleased to quash and
set aside the same and further be p
pleased to direct the respondents to
consider the applicant in continuous
services and pay all the consequential
benefits with 12% interest.

- (B) Be pleased to declare the order of compulsory retirement dated 24.7.87 and the decision of rejecting the appeal by the Supdt. of Post Office, as without jurisdiction and arbitrary, illegal and inoperative in law and be pleased to quash and set aside the same as well as be pleased to declare the decision of the committee dt. 28.9.89 rejecting the appeal of the applicant, as arbitrary, illegal and inoperative in law and be pleased to quash and set aside the same.
- (C) Be pleased to declare the respondents have exercised the powers to victimise the applicant and therefore, the applicant is entitled to get the special cost of the application.
- (D) Any other relief to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with cost".

3. The applicant joined the respondent department in 1949 as Group 'D' and was promoted as Mail Overseer in 1974. In 1987 he was compulsorily retired in a second Review after the applicant had completed 55 years of age. The applicant has challenged the order of compulsory retirement. According to him his immediate boss i.e. Inspector of Post Offices was prejudiced against him and had taken disciplinary action against him several times and each and every time the applicant had represented to the appellate authority who had set aside the penalty. The applicant states that he was cleared for continuance of service after he had completed 30 years of service in 1979 and he was allowed to continue. Once he was allowed to continue in 1979 the record of service from



1979 onwards only should have been considered for review after completion of 55 years of age. The adverse remarks in the C.Rs. of the applicant for 1974-75 were expunged by the appellate authority. Another contention of the applicant is that the appeal preferred by the applicant was not examined by the Appellate Authority viz., Director of Postal Services but it was forwarded to the Circle Office and the Superintendent of Post Office, who rejected his representation on the ground of delay. The applicant states that the delay was only of three days. The applicant then submitted another representation dated 14.10.1988 to DPS, Rajkot. He was then asked to submit a representation to the Representation Committee in the Directorate. The applicant accordingly submitted his representation dated 10.2.1988 (Annexure A-18). His representation was rejected by the Secretary, Postal Board (Annexure A-19). The contention of the applicant is that the appeal should have been considered on merits by the Director of Postal Service who is the appellate authority and also by the Representation Committee in Govt. of India.

4. The respondents have contested the application. They have listed the penalties imposed by the applicant on various occasions for misconduct. They have stated that the appellate Authority

Handwritten signature

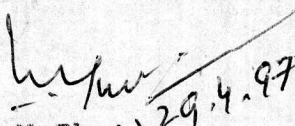
(3)

reduced the penalties to the Censure but he was not absolved for the charges. They have not mentioned as to whether the Representation Committee examined his representation or not.

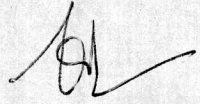
5. It is evident that the appeal of the applicant was not considered by the Director of Postal Services who is appellate authority. It is not disputed ^{ket} ~~by~~ the Superintendent of Post Office rejected the appeal of the applicant on the basis of time bar. Moreover, there is ^{no evidence} ~~no evidence~~ that the Representation Committee had considered the representation of the applicant. In view of the foregoing reasons the orders passed by the Supdt. of Post Offices at Annexure A-13 and that ~~xxxx~~ of the Secretary of the Deptt. of Posts ^{Annexure A-19} are quashed and set aside. We direct the appellate authority i.e. Director of Postal Services, Rajkot to consider and decide the appeal of the applicant within two months by a speaking order. In case the appellate authority reject the appeal, it shall be open to the applicant to represent to the Representation Committee in the Govt. of India. In that case we direct the Representation Committee constituted in the Department of Post to consider the representation of the applicant and pass a speaking order within three months from the date of receipt of the representation.

11

6. With the above observations and directions, O.A. stands disposed of. No order as to costs.


(T.N. Bhat)
Member (J)

29.4.97


(V. Radhakrishnan)
Member (A)

aab