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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 88 OF 1990.

~~Texx No.~~

DATE OF DECISION 21-4-1995.

L.R. Bhatt, **Petitioner**

Mr. D.M. Thakkar, **Advocate for the Petitioner (s)**

Versus

Union of India & Ors. **Respondents**

Mr. Akil Kureishi, **Advocate for the Respondent (s)**

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The Hon'ble Mr. N.B. Patel, Vice Chairman.

The Hon'ble Mr. K. Ramamoorthy, Admin. Member.

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 ?

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J.W.

L.R. Bhatt,
The Superintendent
of Post Offices,
Junagadh Division,
Junagadh.

..... Applicant.

(Advocate: Mr. D.M. Thakkar)

Versus.

1. Union of India,
The Post Master General
Gujarat Circle,
Ashram Road, Ahmedabad.
2. Superintendent of Post Offices,
Junagadh Division,
Junagadh.

(Advocate: Mr. Akil Kureshi)

ORAL JUDGMENT

O.A.No. 88 OF 1990

Date: 21-4-1995.

Per: Hon'ble Mr. N.B. Patel, Vice Chairman.

The applicant challenges the order dated 29.11.89 (Annexure 'A') whereby, in exercise of the powers conferred by Rule 48 of the Central Civil Services (Pension) Rule, 1972, as amended from time to time, the Postmaster General, Gujarat Circle, Ahmedabad has compulsorily retired the applicant Shri L.R. Bhatt, LSG official of Junagadh division, on completion of 30 years of service qualifying for pension, on 21-5-1985. The order states that the retirement shall take effect from the forenoon of the day following the date of

service of order on the applicant.

2. When the matter was taken up for final hearing neither the applicant nor his learned counsel Mr.Thakkar was present.

3. On behalf of the respondents, the learned Additional Standing Counsel Mr. Akil Kureshi pointed out to us that the applicant had earlier filed O.A. 467/86 challenging the legality of the order of his compulsory retirement dated 10.10.1986 which was passed by the Superintendent of Post Offices, Junagadh division, Junagadh. Mr. Kureshi pointed out, from the judgment in the said case, that the earlier order of compulsory retirement, dated 10.10.1986, which was passed by the Superintendent of Post Offices, was challenged by the present applicant on several grounds including the ground that the Superintendent of Post Offices, Junagadh Division, was not the authority competent to pass compulsory retirement order under Rule 48 of CCS (Pension) Rule, 1972, but it was the appointing authority, i.e., Post Master General, Gujarat Circle, Ahmedabad who was competent to pass the order. The earlier O.A. was allowed only on this ground and the order which was impugned in that case, namely, 10.10.86 order, was set aside solely on the ground that it was passed by the Supdt. of

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Post Offices, Junagadh Division, who was not competent to pass the same. So far as the other grounds on which the legality of the said earlier order was challenged are concerned, all of them were rejected. In the present O.A. the applicant has challenged the impugned order dated 29.11.1989 repeating all the said earlier grounds.

4. As already mentioned, these other grounds on which ^{also} the earlier order of 1986 was challenged were negatived categorically by this Tribunal for reasons mentioned in the judgment dated 30.6.1989. We are in complete agreement with all the said reasons and, therefore, we have no hesitation in holding that the present impugned order cannot be held to be illegal on any of the said grounds. We may briefly point out, in this connection, that in that case one of the contentions was that the compulsory retirement order was the product of non-application of mind and that contention was also negatived by the Tribunal observing "it is only necessary to ascertain whether the competent authority came to the conclusion on application of mind, and whether opportunity was given to consider the material to come to the relevant conclusion". Having observed thus, the Tribunal categorically held that it was satisfied that this requirement was met and it was not

possible or necessary to subject the conclusion so drawn to any further judicial review. In the present case, the applicant has contended that, after the earlier ~~ex~~ order was set aside, the respondent No.1 was required to apply his mind afresh after the applicant was reinstated in service and had to take decision after the case of the applicant was put before the Review Committee for the purpose of considering the question whether on the basis of the service record it was in public interest to compulsorily retire the applicant. It is now not disputed that the Post Master General is competent to pass the order. The reply shows that the recommendation of the Review Committee was there and the Post Master General has accepted the said recommendation and passed the impugned order. There is no basis for holding that the competent authority, i.e., Post Master General, had not applied his mind to the recommendation of the Review Committee. So far as the constitution of the Review Committee is concerned, we do not think that the earlier judgment required constitution of new Review Committee. The competence of the committee which examined the service records of the applicant was not challenged in the earlier O.A or even in the present O.A.

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What was challenged was only the competence of the Superintendent of Post Offices to pass the order under Rule 48 in respect of the applicant. That challenge was upheld by the Tribunal, but it is now cured by the passing of the fresh impugned order by the Post Master General himself.

5. In the result, the O.A. is dismissed without, however, any order as to costs.

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(K.Ramamoorthy)
Member(A)

V
(N.B. Patel)
Vice Chairman

vtc.