

Date of order : 21.12.2000

O.A. No. 40/98

Chandreswar Prasad son of Shri Anjor Prasad by caste Aheer aged about 58 years resident of Q.No. T-35-H, Railway Colony, Behind Mal Godam, Bikaner, at present working as Jamadar (Class-IV servant) in the D.R.M's office, Northern Railway, Bikaner.

... Applicant.

v e r s u s

1. The Union of India through the General Manager, Northern Railway, Headquarter's Office, Baroda House, New Delhi.
2. The Chief Medical Director, Northern Railway, Baroda House, Headquarter's Office, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Bikaner.
4. The Assistant Personnel Officer (Engineering Branch), Northern Railway, Lalgah (Bikaner).
5. The Chief Medical Superintendent, Northern Railway, Bikaner.

... Respondents.

Mr. S.N. Trivedi, Counsel for the applicant.

None is present for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed for quashing Annexure A/1 dated 23.01.98 and for a direction to the respondents to treat the applicant as retired on medical invalidation / decategorisation and not on superannuation, with all consequential benefits. A further prayer is made seeking a direction to the respondents as a consequence, to consider the case of his son for compassionate appointment, taking the



applicant as retired on medical grounds.

2. The applicant contended that while he was working as Jamadar, he suddenly fell ill in 1994, and he suffered from Schizophrenia disease. After some correspondence, his case was referred to the Medical Board and without informing him the result of the Medical Board, the applicant was retired on superannuation with effect from 31.01.98. Therefore, there should be a direction to the respondents to retire the applicant on medical ground, rather on superannuation.

3. The respondents by filing reply denied the case of the applicant. They stated that the applicant has already been retired on 31.01.98 and he has filed the present application only with the aim to seek the benefit of the appointment of his son on compassionate grounds. Therefore, he is claiming his retirement as on medical invalidation / decategorisation. But the Medical Board, after examining him thoroughly, found that he was medically fit in his original category and job, vide Annexure R/2 dated 6.10.94. They have also stated that the applicant remained unauthorised absent from his duties with effect from 6.10.94 till he retired from services on 31.01.98, and a separate disciplinary action has been initiated against him vide Charge Sheet (Annexure R/1) dated 20.01.97, and the same is pending. They have stated that the applicant was medically fit and he purposely absented himself from duties. Consequently, he retired from service with effect from 31.01.98. They have denied the allegations of the applicant that the doctors, who have examined him by the Medical Board, told him verbally that he was not fit for his duties. They also denied the case of the applicant that he was suffering from Schizophrenia. In fact, he was sent to the Medical Board for examination in view of the directions issued by this Tribunal in OA No. 310/93, vide judgement/order dated 21.07.94. The Medical Board



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accordingly issued a certificate vide Annexure R/2 dated 06.10.94, stating that the applicant was fit to his original category and job. Accordingly, they stated that there are no merits in this application.

4. Heard the learned counsel for the applicant.

5. The learned counsel for the applicant reiterated the same stand what has been taken by the applicant and the respondents in their respective pleadings.

6. Both from the arguments addressed at the Bar and from the pleadings, it is an established fact that as directed by the order of this Tribunal on 21.07.94, the applicant was referred to the Medical Board regarding alleged ailment of Schizophrenia, and ultimately, the Medical Board gave their opinion vide Annexure R/2 dated 06.10.94. From going through the medical opinion given by the Medical Board, we find that the Board clearly found that the applicant was fit to his original category and job and he did not suffer from Schizophrenia. If that is the opinion of the Experts of the Medical Board, we have no other option but to accept the same. We cannot sit over the judgement of such Experts as to the physical conditions of the applicant. The fact also remains that the department has already initiated proceedings for his unauthorised absence from 06.10.94 to the date of his retirement on 31.01.98. 6.10.94 is the date on which the Medical Board gave their opinion that the applicant was fit to discharge his duties. It is from that date to the date of superannuation, according to the department, the applicant was unauthorisedly absent. Those departmental proceedings are still going on. In this view of the matter, we do not find any merit in this application and we cannot issue directions to the respondents to retire the applicant on medical invalidation / decategorisation with effect from the date of his superannuation on 31.01.98. Accordingly, we pass the order as



under:-



"The application is dismissed. But in the circumstances,
without costs."

Gopal Singh

(GOPAL SINGH)
Adm. Member

B.S. Raikote

(JUSTICE B.S. RAIKOTE)
Vice Chairman

cvr.

Rec'd Copy
J. L. Lett
2/1/2001

Part II and IM destroyed
in my presence on 3/1/02
under the supervision of
section officer [signature] as per
order dated 10/11/01.

Section officer (Record)

Rec'd
LWS
2/1/2001