

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A.No.93/2002

Monday this the 19th day of July 2004

C O R A M:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

P.Surendran, S/o Padmanabha Panicker (under order of termination)
Tradesman-D, Civil Public Health/Engineering
Maintenance Division, Vikram Sarabhai Space Centre
Thiruvananthapuram-22.

(By Advocate Mr.M.V.Thamban)

Applicant

Vs.

1. Deputy Head, Engineering Maintenance Division (CPH)
Vikram Sarabhai Space Centre, Thiruvananthapuram.
2. Head, Personnal & General Administration
Vikram Sarabhai Space Centre, Thiruvananthapuram.
3. Controller, Vikram Sarabhai Space Centre,
Thiruvananthapuram.
4. Union of India represented by the Chairman
And Secretary, Indian Space Research Organisation,
Department of Space, Bangalore.

(By Advocate Mr.C.N.Radhakrishnan)

Respondents

The O.A having been heard on 19.7.2004 and the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN.

The applicant, a Tradesman-D in Civil Public Health/
Engineering Maintenance Division, Vikram Sarabhai Space Centre,
Thiruvananthapuram, has filed this application challenging the
order Annx.A4 dated 9.1.2002 of the 3rd respondent refusing to
interfere with the adverse entry in his ACR for the year 2000 as
'fair' in appeal as also Annx.A5 order dated 10.1.2002 by which
the 2nd respondent retired the applicant under the provisions of
Rule 48(1)(b) of the Central Civil Services (Pension) Rules,



1972. It is alleged in the application that in the ACR for the year 2000 while the assessment of the applicant was shown as 'very good' against many columns, in the general grading he has been awarded as 'fair' without any valid reason and that the 3rd respondent without application of mind concurred with the grading and refused to interfere with it and that the impugned order Annx.A5 retiring the applicant from service has been issued against the provisions of FR 56(J) in an arbitrary, illegal and malafide manner. Therefore, the applicant seeks to set aside Annxs.A4 and A5 and direct the respondents to reinstate the applicant in service with consequential benefits.

2. The respondents in the reply seek to justify Annx.A4 order on the ground that the applicant's appeal was considered although there was no specific ground against the grading given in the ACR and it was found that the grading awarded to him was more generous than he deserved having regard to the service profiles of the official during the period in question. They further justified Annx.A5 on the ground that the Review Committee having considered the entire service record of the applicant did not recommend to continue him in service after 55 years and the competent authority after application of mind ordered in public interest retiring the applicant from service in terms of the provisions of Rule 48(1)(b) of the Central Civil Services (Pension) Rules, 1972. The respondents contend that the action taken are as per rules and do not call for any judicial intervention.


3. The applicant in his rejoinder reiterated the contentions as raised in the O.A and the respondents refuted the same by filing an additional reply statement.

4. Mr.M.V.Thamban, the learned counsel of the applicant argued that the 3rd respondent did not apply his mind carefully to the appeal and the order Annx.A4 turning down his representation was not justified. The learned counsel of the respondents on the other hand argued that the adverse entry in the ACR was found to be factual verification of record therefore the appellate order cannot be faulted.

5. On going through the appeal submitted by the applicant, the adverse entries in the ACR and the order Annx.A4, we do not find any perversity or lack of application of mind to grounds of appeal while turning down the appeal. No specific ground was raised in the appeal against the adverse entry and the entry has been justified on the ground of facts. We, therefore, do not find any reason to interfere with Annx.A4 order.

6. Coming to the Annx.A5 order issued under Rule 48(1)(b) of the Central Civil Services (Pension) Rules, the learned counsel for the applicant argued that FR 56(J) permit compulsory retirement after an employee completed 55 years, while taking recourse to the Central Civil Services (Pension) Rules, it is not justified to retire a person the same is not permissible under FR 56(J).


7. We notice that FR 56(J) provides compulsory retirement of a person after ^{he} ~~attains~~ 55 years whereas Rule 48 of the Central Civil Services (Pension) Rules provides an opportunity to the employee as also the appointing authority to retire after



giving 3 months notice or 3 months pay in lieu of the notice if the employee chooses to do so or the competent authority does not chose to retain an officer after 30 years of service. Therefore, the contention of the applicant that since the applicant has not attained 55 years the order of his retirement invoking provisions of Rule 48 of the CCS(Pension) Rules is impermissible in view of Rule 56(J) of the FR has no force at all.

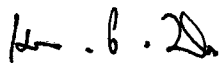
8. The learned counsel of the applicant argued that the decision to retire the applicant under FR 56(J) and Rule 48(1)(b) of the Central Civil Services (Pension) Rules, has been taken arbitrarily and malafidely and that the decision was not in public interest. He also argued that in terms of OM No.25013/14/77-Estt-A dated 5.1.78 it is not permissible to retire a person just for the reason that he had adverse entry in the ACR for one year without reference to his entire service record. The learned counsel for the respondents argued that there is no specific allegation of malafide against the competent authority and that the decision has been taken on a careful perusal of the service profile of the applicant.

9. We have not only gone through the pleadings and materials on record but has also seen the file which contains the review of the applicant's case for his continuance after 30 years of service and the decision taken. On going through the file we find that the services of the applicant for the last many years had not been productive and that for the last 25 years he had not gained any promotion although every 3 years he

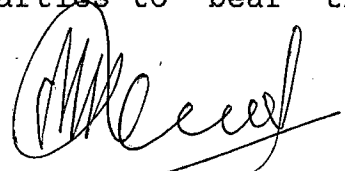


had been reviewed for promotion. We further notice that on many occasions the applicant was not allowed to cross the Efficiency Bar and the general grading had been poor, not fair, etc. With these profile of service, we are of the considered view that the Committee or the Competent Authority cannot be faulted for taking a decision that it may not be in public interest to retain him after 30 years of service.

10. In the light of what is stated above, we find no merit. The application is dismissed leaving the parties to bear their own costs.



(H.P. Das)
Administrative Member



(A.V. Haridasan)
Vice Chairman.

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