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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Lucknow Circuit Bench
Registration O.A. No.52 of 1991 (L)

Mubarak Ali Siddiqui Applicant

Versus

Union of India & Others Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice K. Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing an order retiring the applicant from service with effect from 31.3.1990 and for a further direction to continue the applicant in service upto 31.3.1992.

2. The applicant entered into the Railway Service on 7.2.1948 as a substitute Khalasi which was class IV (Group 'D') post. It is not stated when he rose to class III (Group 'C') post, but on 1.3.90 he was holding such post in the scale of Rs.2800-3200.

3. Relying upon Rule 2046 of the Railway Establishment Code Volume II, it is stated in the application that since the applicant entered into the Railway service prior to 1.12.62 in class IV, he is entitled to continue upto the age of 60 years. This is based on clause (e) of Rule 2046 which runs

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as follows :-

" Railway servants in class IV service or post who prior to 1.12.62 were entitled to serve upto the age of 60 years including the new entrants to those categories shall continue to serve upto the age of 60 years."

The opening phrase makes it plain that it applies only to those railway employees who are in class IV service on the date when the question of superannuation arises. Such an employee would continue upto the age of 60 years either if prior to 1.12.62 he was entitled to continue upto that age or came as a new entrant, i.e. after 1.12.62. The applicant does not belong to that category. The Railway Board's circular dated 18.12.82 summarised in Annexure-A.4 lays down precisely this very position.

4. Reliance by the learned counsel for the applicant on the cases of Railway Board Versus A.Pitchumani 1972 SC 508 and Shri Shiv Kumar Versus General Manager, Northern Railway 1970 SLR 98 is misplaced because they dealt with the cases of railway servants employed before 31.3.38 to whom Rule 2046(b) applied. The applicant was employed in 1948. The case of Union of India & Others Versus Venkataraman & Others 1990 Allahabad Civil Journal 291 (SC) also appears to have dealt with the cases of Ministerial Railway servants who entered in the service on or before 31.3.38, vide para 2 of the report.

5. The applicant therefore has no case and the application is dismissed in limine.

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Member (A)

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Vice Chairman

Dated the 15th April 1991.

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