

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Original Application NO. 94/91

This is 16th day of May, 2000.

HON. MR. D. V. R. S. G. DATTATREYULU (JM)

HON. MR. S. MANICKAVASAGAM. (AM)

Sri. M. C. Sharma

...Applicant.

M. C. Sharma, aged about 68 years, son of Late Jwala Prasad R/o D. 33, Nirala Nagar, Lucknow (Last employed as Clerk in the office of Permanent way's Inspector, Northern Railway Balandshahr).

BY Advocate Sri. R. C. Singh.

Versus

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Assistant Engineer, Northern Railway, Hazur.
4. Permanent way's Inspector Balandshahr (Northern Railway).

By Advocate Sri. A. K. Chaturvedi. Respondents.

O R D E R

BY HON. MR. D. V. R. S. G. DATTATREYULU (JM)

1. The applicant in this case prays for giving the directions to the respondents to quash the impugned order of compulsory retirement. Under Annexure-A.1 and also the appellate order Annexure A.3 and to finalise the outstanding dues to the applicant from the respondents. The applicant while working with the respondents was compulsorily retired from service by the orders dated 22.12.81 Annexure-A.2. According to the applicant, that the department conducted the enquiry in the charge sheet dated 1.11.76 for the alleged misconduct of gross negligence in allowing one Murary for more than one year in service without bringing to the notice of the authorities about the retirement. After the enquiry was conducted he was removed from service.
2. The respondents filed the counter stating

that the enquiry was conducted against the applicant, because of his negligence is not ~~bring~~ bringing to the notice of the concerned about the retirement of Murary. The disciplinary authority imposed the punishment of compulsory retirement from service. The appellate authority ^{the} also dismissed this appeal.

3. We heard the Learned Counsel for both sides and considered the various documents filed in the petition.

4. The point for consideration is whether any directions have to be issued or not.

5. It is seems from the allegations made in the application and also the counter, that the applicant was careless in not bringing to the notice of the concerned regarding the retirement of Murary a Gateman. Which resulted in allowing him to continue in service for morethan one year. The enquiry was conducted and the disciplinary authority imposed the punishment of compulsory retirement which was upheld by the appellate authority.

It is the contention for the applicant that the appellate authority ought to have considered the entire material a fresh, and decided the matter, but the appellate authority simply stated that the findings of the disciplinary authority upheld the punishment. This is contrary to law. Therefore the order has to be set aside. It Murary is not denied by the applicant that / ought to have been retired earlier. The enquiry was conducted, and the applicant is not able to show that either, the enquiry officer is in any way prejudicised or biased against him, nor, even the appellate authority. The appellate authority had considered the material and

exercised the mind and came to the conclusion to uphold the punishment, and also the findings, hence there are no inherent impropriety in the appellate orders or even in the original orders. Therefore, the order can not be quashed.

6. As regards the applicant's dues the counter has clearly maintained that all the dues due to the applicant were paid, and if any amount is still due, it will be processed and paid.

7. As regards the complementary pass in the Railway's the contention of the respondents is that, since the applicant was over stayed in the quarters he was not given the passes for particular years, but subsequently, the pass was given to him. Therefore, on this point also there is no illegality or irregularity.

8. On a consideration of entire material, the application is devoid of merits, and it is dismissed. But the Tribunal directs the respondents to find out whether any further dues are still to be paid to the applicant, and if so, they should pay the same within two months from the date of receipt of the copy of this order.

Syam Sunder
MEMBER (A) 16/5/2000

T S
MEMBER (J)

Lucknow.

Date.

V.W.