

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A. 293/87

R.G.Naidu,
C/o. Shri G.S. Walia,
89/10, W. Railway Employees' Colony,
Matunga Road,
Bombay - 400 019.

... Applicant

v/s.

1. Union of India,
through
The General Manager,
Telecommunication Circle,
Maharashtra,
Bombay - 400 001.
2. Chief Supdt.,
Central Telegraph Office,
Bombay - 400 001.
3. General Manager,
Telecommunication Circle,
Maharashtra,
Bombay - 400 001.

... Respondents

Coram: Hon'ble Member(A) J.G. Rajadhyaksha
Hon'ble Member(J) M.B. Mujumdar

Appearance:

1. Mr. G.S. Walia
Advocate for the
Applicant.
2. Mr. S.R. Atre
(for Mr. P.M. Pradhan)
for the Respondents.

ORAL JUDGMENT

Date: 31-8-1987

(Per M.B. Mujumdar, Member(J))

The applicant was working as a Telegraphist since 23-4-1967. A departmental enquiry was held against him on two charges. The first charge was that the applicant had remained absent without prior sanction of leave for 152 days on 53 occasions in contravention of Rules 62 and 162 of Posts and Telegraph Manual Vol. III during the period from 11-3-1982 to 1-10-1983. The second charge was that the applicant had failed to improve his attendance in spite of 3 Statutory punishments awarded to him on

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21-8-1976, 26-9-1981 and 30-7-1983. As the applicant pleaded guilty to the charges, the penalty of compulsory retirement from service was imposed upon him by an order dtd. 12th May, 1984. The applicant did not prefer any appeal against that order though an appeal was provided for by the service rules. However, on 15-9-1986 i.e. after about 2 years and 4 months he preferred a representation to the Minister for Communications, New Delhi. That representation is not replied as yet. After waiting for more than 6 months the applicant has filed the present application on 20-4-1987 challenging the order of compulsory retirement. The applicant has also filed Misc. Petition No.221/87 on 3-8-1987 for condonation of delay. We had issued notice to the respondents regarding that application and the respondents have filed their reply opposing the condonation of delay.

2. We have heard Mr.Walia for the applicant regarding admission and condonation of delay. We also heard Mr.S.R. Atre for the respondents and have gone through the relevant documents.

3. As already pointed out the applicant had pleaded guilty to the charges. He did not prefer any appeal against the order of penalty. However, finding that the appeal was timebarred he made a representation to the concerned Minister on 15-9-1986, which is not a statutory remedy. Hence we find that the present application is devoid of merits and hopelessly time barred.

4. Mr.Walia urged two points before us. The first was that the applicant had not put in more than 20 years of service and hence the order of compulsory retirement is bad in law because the applicant does not get any retirement benefits. But Compulsory retirement is one of the major

penalties enumerated in Rule 11 of the CCS(CCA)Rules and there is no provision which states that the penalty of compulsory retirement cannot be imposed when the employee has put in less than 20 years of service. Hence we find no substance in the first point raised by Mr.Walia. The second point which was urged by Mr.Walia was that the penalty of compulsory retirement is disproportionate to the gravity of charges levelled against the applicant. We have already mentioned the charges. The applicant had remained absent for 152 days without prior sanction and that too on 53 different occasions. In spite of three statutory penalties he did not improve his conduct. Hence we do not find that the penalty can be said to be disproportionate to the misconduct of the applicant in any way.

5. When we had dictated a major portion of this order Mr.Walia requested for a couple of days' time for advancing further arguments. For obvious reasons we had rejected that oral request also.

6. We, therefore, reject this application summarily under Section 19(3) of the Administrative Tribunals Act, 1985. Misc. Petition No.221/87 for condonation of delay is also rejected. There will be no order as to costs.

(J. RAJADHYAKSHA)
Member(A)

(M.B.MUJUMDAR)
Member(J)