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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH

TR 53/88

Shashikant Anant Jadhav ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM : Hon'ble Member (A) Shri M.Y. Priolkar

Hon'ble Member (J) Shri D.K. Agrawal

Appearances:

1. Applicant in person.
2. Shri V.S. Masurkar,  
Advocate for the  
respondents.

JUDGEMENT:

[Per. D.K. Agrawal, Member (J)]

Dated : 12.6.1990..

A Writ Petition No. 499/1985 filed before the High Court of Judicator at Bombay was transferred to this Bench of the Tribunal under the provisions of Section 29 of Tribunal's Act 1985 and registered as Transfer Application No. 53/88, as indicated above.

Briefly, the facts are that a High Power Committee, meeting of which was held on 24.2.84, constituted in accordance with the confidential instructions of the Ministry of Home Affairs, Government of India, to review the retention of Class-III and Class-IV employees of the Telecommunications Department, recommended their retirement on completion of 55 years of age/30 years of qualifying service of <sup>the</sup> which a number of employees including the petitioner. Consequently, the petitioner was served with three months notice on 9.3.84 and actually retirement with

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effect from 10-6-84. The petitioner was at that time ~~was~~ working as selection grade Jamadar in Telegraph Office at Bombay. Thereafter, notice dated 19.2.85 was given to the petitioner to vacate the quarter which was allotted to him while in service. The petitioner then filed the Writ Petition on 11.3.85 and obtained an order from the High Court restraining the respondents to evict him from the quarter. The High Court also passed an order that the petitioner will continue to pay the same rent as he was paying hitherto. The petitioner has assailed the order of retirement on completion of 30 years of qualifying service based under Rule 48 of CCS (Pension) (1) Rules 1972 alleging that he has been retired only on the basis that the petitioner has been an active worker of the Post and Telegraph Employees Union.

The respondents have denied that the petitioner was retired on the basis that he was an active worker of the Union. It has been urged on behalf of the respondents that the petitioner's performance was not good and the High Power Committee on review of the personal file and confidential reports found his work to be unsatisfactory and, therefore, recommended his retirement. The respondents have produced the original records before us to show that the petitioner lacked devotion to duty, he was not punctual, he was frequently absent from office and his absence has often been treated as dies-non.

We have heard the learned counsel for the applicant and perused the records. It may be said at the out set that the High Power Committee consisted of the then General Manager (Telecommunications) namely

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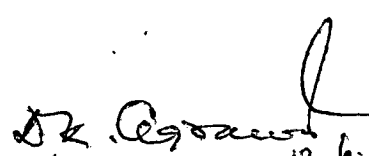
Shri V.N. Wardhakar and Deputy General Manager (Administration) namely Shri M.V. Bhaskara Rao, who have not been impleaded <sup>as parties</sup> ~~ex-parte~~ nor any allegations <sup>of malafides</sup> have been made against them. The High Power Committee reviewed the case of all the employees of Telecommunications Department who had attained the age of 55 years/30 years of qualifying service and recommended retirement of a large number of employees. Therefore, no question of malice arises in the instant case. The High Power Committee was guided by the records of the petitioner and others. It may be further mentioned that the guidelines for the High Power Committee are contained in Rule II of Appendix 9 of Central Civil Services (Pension) Rules. Therefore, the discretion of the High Power Committee can be challenged on very cogent grounds which, in our opinion, do not exist. It would appear that it has been admitted by the petitioner himself in his representation dated 31.5.84 (Annexure C to the petition) in consonance with the pleading of the respondents that he had to be absent from office on the grounds of his family circumstances. He also extended an assurance in the aforesaid representation to be regular in attendance in future. The said representation was made by the petitioner after he had received the three months notice of retirement on 9.3.84. We further find from his personal file that his absence many times was treated as dies-non and the period treated as dies-non was <sup>retained</sup> ~~not~~ <sup>at such</sup> ~~contended~~ despite his representation. Thus, <sup>there</sup> remains no doubt that the petitioner, for one or the other reasons,


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was not able to attend his duties regularly. Consequently, the respondents allegations that he lacked devotion to duty and was not punctual could also be reasonably inferred. In the circumstances, the decision of the High Power Committee appears to us to be justified. We are of the opinion that no cogent material has been brought on record on the basis of which the recommendations of the High Power Committee may be <sup>be questioned</sup> satisfied. We may also mention that the petitioner, for reasons best known to him, did not approach the High Court soon after he received the notice of retirement on 9.3.84. It would appear that he approached the High Court only after a notice (Annexure G) dated 19.2.85 was served upon him for vacation of quarter occupied by him during his service period. It is also relevant to mention here that in his representation dated 13.5.84 (Annexure C) the petitioner expressed grievance that if he is made to retire he will have to vacate the quarter. Thus we can reasonably <sup>or</sup> ~~infer~~ <sup>be</sup> that the petitioner was more scared with his eviction from the Government quarter rather than his retirement. At least we do not find any reason as to why the petitioner did not challenge the recommendations of the High Power Committee as soon as the same was communicated to him on 9.3.84. Why did the petitioner wait till <sup>24-3-85</sup> ~~11.3.84~~ <sup>2</sup> is not known.

Taking into account the entire circumstances of the case as discussed above, we are of the opinion that this application is devoid of merit. The application is, therefore, dismissed without any order <sup>as</sup> ~~to~~ <sup>costs</sup> ~~pass.~~

  
( D.K. Agrawal )  
M (J)

  
( M.Y. Priolkar )  
M (A)