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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.120/89

Shri P.G.Deshpande

... Applicant

vs.

Union of India,
Ministry of Atomic Energy & Ors. ... Respondents

CORAM: Hon'ble Member (A), Shri M.Y.Priolkar
Hon'ble Member (J), Shri D.K.Agrawal

Appearances:

Applicant in person and
Shri M.I.Sethna, Counsel,
for the respondents.

ORAL JUDGEMENT:

Dated : 5.10.1990

(Per. Shri D.K.Agrawal, Member (J))

The applicant, Shri P.G.Deshpande, posted as Scientific Officer, Grade (SD), was made to prematurely retire by an order dated 25.1.1988 on the basis of recommendations of Director of Bhabha Atomic Research Centre after being duly screened by the Screening Committee on the basis of the recommendation of a sub-committee which was submitted to the Review Committee and duly approved by the Minister of the department concerned, who was at the relevant time, the Prime Minister. The reason for the same was that Shri Deshpande's performance during the period 1976 to 1986 was found to be poor. He was graded in Category 'D' for successively 5 years i.e. 81-82, 82-83, 83-84, 84-85 and 85-86. The decision of the competent authority, thus, appears to have been based on reasonable grounds. The same has not been shown to us to suffer from malice or arbitrariness. We are of the opinion that we are not supposed to substitute our opinion in the matter of the assessment of merits or

D.K.Agrawal

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demerits of a person by the competent authority unless the decision suffers from the vice of malice or arbitrariness. However, we do find that according to the instructions regarding premature retirement of central govt. servants as contained in Appendix 10 of Swamy's Pension Compilation (11th Edition) Page 337, the recommendations of representation committee had to be approved or disapproved by the Minister of the department concerned. In the instant case the recommendations of the representation committee dated 26.3.88 were submitted to Minister of the department for information. The Senior Standing Counsel appearing on behalf of the opposite parties has not been able to put before us the final order of the approval of Minister of the department concerned as provided in column 2 of annexure 2 of Appendix 10 as referred to above. Its result would be that it would be deemed that the representation of the applicant is still pending. Therefore it calls for a remand to the concerned authority for decision on the representation of the applicant notwithstanding that it has been addressed to the Chairman of the Department of Atomic Energy which should have been addressed to the President of India. The opposite party No.1 is directed accordingly to dispose of the representation of the applicant treating it to be a representation to the President of India within three months hereof failing which the order of premature retirement of the applicant would stand set aside and the applicant would be reinstated with all consequential benefits.

2: The parties will bear their own costs.

D.K. Agrawal
5.7.89
(D.K.Agrawal)

Member(J)

M.Y. Priolkar
(M.Y. Priolkar)
Member(A)