

(06)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW BOMBAY BENCH

O.A. No. 940/89

RxXXXNo.

198

DATE OF DECISION 13-3-1991

Khandu Devji Rengde Petitioner

Mr. M. T. Thakkar Advocate for the Petitioner(s)

Versus

Sr. Supdt., Telegraph Traffic, Pune Respondent  
and three others.

Mr. P. M. Pradhan Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. M. Y. Priolkar, Member (A)

The Hon'ble Mr. T. Chandrasekhara Reddy, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

(M.Y.PRIOLKAR)  
Member (A)

(57)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH

O.A.940/89

Khandu Devji Rengde,  
C/o. Mr. M.T. Thacker,  
Advocate,  
E-7/01, Sector-1, Vashi,  
New Bombay - 400 703. .. Applicant

vs.

1. Sr. Superintendent,  
Telegraph Traffic,  
Pune - 411 001.
2. Deputy General Manager,  
Telecom(Hqs),  
Telecom Area,  
Maharashtra Circle, Link Road,  
Santacruz(W),  
Bombay - 400 054.
3. Chief General Manager,  
Maharashtra Telecom Circle,  
Bombay - 400 054.
4. Director General,  
through  
Member(Personnel)  
Telecom, Sanchar Bhavan,  
New Delhi. .. Respondents

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

Hon'ble Member(J) Shri T. Chandrasekhara Reddy

Appearances:

1. Mr. M.T. Thakkar  
Advocate for the  
Applicant.
2. Mr. P.M. Pradhan  
Advocate for  
respondents.

JUDGMENT:

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

Date: 13-3-1991

The applicant in this case, while working as Section Supervisor in Central Telegraph Office, Pune, was prematurely retired on 7-12-1989. The grievance of the applicant is that the premature retirement order is illegal since he could not be so retired before attaining 55 years of age, his entire service record

was not considered nor was he considered for retention in the lower post and the retirement order is based on adverse remarks in his confidential reports, representations against which are still to be disposed of by the respondents.

2. The learned counsel for the applicant argued at great length that the applicant being only 50 years old and a Group C employee, could not be prematurely retired before attaining the age of 55 years, under the provisions of Fundamental Rule 56(j). It was pointed out on behalf of the respondents that the applicant's premature retirement was ordered under Rule 48 of the C.C.S(Pension) Rules, 1972, by giving him three months notice after he had completed 30 years of qualifying service for pension. It is clear from this rule that even a Group C employee can be prematurely retired, irrespective of the age at the appropriate time, after he has completed 30 years of qualifying service. The applicant's counsel also conceded during the hearing that the applicant was covered under the rule.

3. The applicant has admitted (para 4.7 of the application) that he was communicated adverse remarks in his confidential reports for the years 1983-84, 1984-85, 1985-86 and 1986-87. His contention is that he had made representations against the adverse entries in the years 1984-85, 1985-86 and 1986-87 but there was no reply. In their written reply, the respondents have ~~denied~~ that any representation was received from the applicant against adverse entries for the years 1984-85 and 1985-86. They have also

stated that the so-called representation against the adverse entries for the year 1986-87 was in fact an admission by the applicant of his shortcomings. We have gone through this representation (Annexure 6 at page 21 of the application) and find that the applicant in this communication has neither challenged nor prayed for expunging the remarks made in his Confidential Reports. We are of the view that this cannot be considered to be a pending representation as the question of replying to the applicant's own admissions did not arise.

4. The applicant's last contention was that his service record for the previous five years only was considered before ordering his premature retirement and he was not considered for retention in the lower post, which was in violation of the guidelines laid down in Appendix 10 to C.C.S. Pension Rules, 1972. This is denied by the respondents who have averred in their written reply that action taken by them was after due consideration of these guidelines. We have perused the entire C.R. file of the applicant. In 1965-66, the applicant was censured for unsatisfactory attendance. In 1983-84, his increment was stopped for two years for negligence and misappropriation. In 1984-85, he was severely reprimanded and in 1988-89 censured for attending office in intoxicated condition on 4-8-1984 and 20-3-1988 respectively. There are also a large number of other adverse entries in his CRs for 1982-83, 1983-84, 1984-85, 1985-86, 1986-87 and 1988-89, which were duly communicated and acknowledged by the applicant. The guidelines no doubt provide that where an employee is not found fit to continue in his present post, his fitness/competence

to continue in the lower post, from where he had been previously promoted, should be considered. The review committee's recommendations do not specifically record that the applicant was not found fit to continue even in the lower post, and to that extent there is an infraction in the observance of the relevant guidelines. But in the face of the CRs of the applicant where remarks like irregular attendance and attending office in intoxicated condition have been recorded and communicated to the applicant without any representations from him, it is difficult to accept that even if the question of retention in the lower post had been specifically considered by the committee, the decision would have been in favour of the applicant. In any case, these guidelines are only directory and not mandatory and a small infraction in the prescribed procedure would not, in our view, vitiate the decision taken. We are satisfied after perusal of the entire service record of the applicant that on the facts and circumstances of this case, the review committee's recommendation was arrived bonafide in public interest and this decision cannot be considered as an arbitrary decision nor based on any extraneous considerations nor as a short cut to penalty without enquiry, as alleged.

5. We do not, therefore, see any merit in any of the contentions raised on behalf of the applicant. This application is, accordingly, dismissed with no order as to costs.

*T. C. Reddy*

(T.C.REDDY)  
Member(J)

*M.Y. Priolkar*  
13-3-81

(M.Y.PRIOLKAR)  
Member(A)