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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CAMP : NAGPUR

O.A. No. 307/89

198

~~T.A. No.~~

DATE OF DECISION 9.7.1991

S S. Wanttamute Petitioner

S G Aney Advocate for the Petitioner(s)

Versus

Union of India & Another Respondent

S K Sanyal Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U C Srivastava, Vice Chairman

The Hon'ble Mr. P S Chaudhuri, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?



(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY - 400 614
CAMP: NAGPUR

O.A. No. 307/89

S.S. Wanttamute
C/o. G. Chatterjee
Advocate
52 Postal Audit Colony
Rana Pratap Nagar
NAGPUR 440022

.. Applicant

V/s.

Union of India
through General Manager
South Eastern Railway.
Nagpur

Railway Board
through Chairman
Railway Board
Rail Bhawan
New Delhi.

.. Respondents

CORAM: Hon. Shri Justice U C Srivastava, V.C.
Hon. Shri P.S. Chaudhuri, Member (A)

APPEARANCES:

Shri S G Aney
Advocate
for the applicant

Shri S K Sanyal
Counsel
for the respondents

ORAL JUDGMENT: DATED: 9.7.1991
(PER: U.C. SRIVASTAVA, VICE CHAIRMAN)

The applicant was made to retire compulsorily from service with effect from 31.3.1989 under Rule 2046(h) of the Indian Railway Establishment Code (Vol. II) having already attained the age of 50 years on 6.10.1982.

2. The applicant who was appointed in the Railway Administration as Assistant Engineer in the year 1962 was promoted to various posts and was holding the post of Senior Divisional Engineer when he approached this Tribunal against his compulsory retirement. He was

not given any opportunity before the impugned order was passed. The record shows that the applicant was awarded the minor penalty of withholding of increments for a period of 2 years with effect of postponing future increments with effect from 2.4.1987. He was awarded the minor penalty of 'Censure' in April 1988 and again was given a minor penalty of withholding of privilege passes for the remaining part of 1989 by order dated 23.2.1989. According to the applicant barring the above punishments his service record is excellent and he has very good remarks in his confidential reports. He has challenged the penalty on the ground that he was compulsorily retired in 1989 whereas he had attained the age of 50 years in the year 1982. The order is challenged on the ground that there was no material other than the 3 minor punishments awarded to him and that the action of respondents is arbitrary or in other words illegal.

3. The respondents have resisted the claim of the applicant and pleaded that the order of compulsory retirement of the applicant has been passed by the President in public interest and after taking into consideration all the relevant factors. The Screening Committee has recorded its views and recommendation before the order of compulsory retirement was passed. The record has been produced by the learned counsel for the respondents. On perusal of this record we find that the Screening Committee has observed that so far as his efficiency is concerned, he is not to be retired prematurely on that ground. However, the Screening Committee has also observed in so far as the applicant's integrity is concerned it is doubtful and renders him unsuitable for continuance in

service and so the Screening Committee were of the view that it is a fit case for invoking the provisions of Rule 2046(h) RII and retire the applicant from service in public interest on grounds of doubtful integrity. Reference to seven incidents have been made in this connection, one of which was closed. As far as the other six are concerned, earlier he was 'Censured'. He was awarded major penalty of reduction to a lower stage in time scale for a period of two years in 1974. His lapses were brought to his notice on 3.9.81. A penalty of withholding of increments for a period of 2 years was imposed on 2.4.87. A written warning bringing lapses to his notice was issued. On 6.4.88 a minor penalty of 'Censure' was imposed. In view of his past record, the Screening Committee's recommendations that the applicant be made to retire compulsorily in public interest cannot be faulted. On the applicant's representation, the matter was re-considered by the Reviewing Committee but they recommended rejection of the applicant's representation.

4. The learned counsel for the applicant contended that adverse entries prior to five years should not have been taken into account and that stale matters should have been overlooked. He made reference to the following cases:

1991(2) SLJ 123

AIR 1987 SC 65

AIR 1971 SC 40

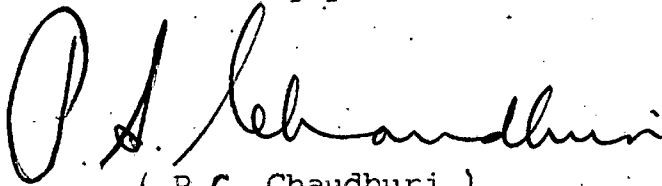
These cases do not go to the extent of opening any benefit in the present case, and hence do not give any

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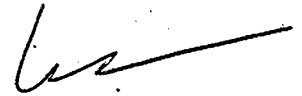
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benefit to the applicant. In the present case the Screening Committee has come to the conclusion based on the past record of the applicant and expressed its views that this is a fit case for compulsory retirement in public interest. This view has been upheld by the Review Committee. On perusal of the record we are not taking any different opinion as we do not find valid grounds and the facts are quite distinct.

5. In these circumstances the application is accordingly dismissed with no order as to costs.



(P.G. Chaudhuri)
Member (A)



(U.C. Srivastava)
Vice Chairman