

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 15th DAY OF APRIL, 1987

Present : Hon'ble Shri Ch. RAMAKRISHNA RAO

MEMBER(J)

Hon'ble Shri L.H.A. REGO

MEMBER(A)

APPLICATION No.1501/86(T)

R.Kshetrapala,
L.S.G.(Postal Assitant),
Hassan Head Post Office,
Hassan.

APPLICANT

(Shri M.R.Achar

...

... Advocate)

V.

The Director of Postal Services(S.K),
Karnataka Circle,
Bangalore.

Post Master-General,
Karnataka Circle,
Bangalore

RESPONDENTS

(Shri N.Basavaraj

...

... Advocate)

This application has come up before the court
today. Hon'ble Shri L.H.A.Rego, Member(A) made the following :

ORDER

In this application transferred under Section 29
of the Administrative Tribunals Act 1985, the applicant prays
that the Order dt.21.6.1985(Annexure B) passed by Respondent(R)¹,
giving notice to the applicant in accordance with Rule 56(j)(ii)
of the Fundamental Rules(FR, for short), that he shall retire
from service from the date as specified therein, be quashed and
that the respondents be directed to accept his application for
voluntary retirement, made under Rule 48 of the Central Civil
Services(Pension) Rules 1972(Pension Rules, for short) and dec-
lare, that he is deemed to have retired from service^c w.e.f.10.9.1985
and grant him consequent relief.

Le

badly into various irregularities, which called in question his integrity. We are convinced that the Review Committee has acted with prudence and mature consideration, in the circumstances of the case, in proposing premature retirement of the applicant, under FR 56(j), in public interest.

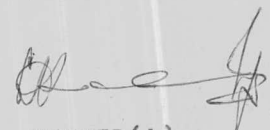
11. The order of premature retirement served by R1 on 21.6.1985(Annexure B) on the applicant, is an order simpliciter under FR 56(j)(ii), which is in accordance with the terms and conditions of service and therefore does not amount to a penalty of removal or dismissal, within the meaning of the service rules or Article 311 of the Constitution, as it does not entail loss of benefits already earned (vide RAJIV AMAR SINGH's Case SC 1980) or of retiral benefits, or casting of any stigma against the applicant.

12. It is clear from the chronology of events, that the applicant had a scent of the imminent application of the provisions of premature retirement against him, to thwart which, apparently he gave a notice of voluntary retirement on 6.6.1986(Annexure A) to R1, which was rejected on 12.8.1985.

13. Viewing the case in its entirety, and the service record of the applicant, we are convinced, that the action taken by the respondents to retire the applicant under the provision of FR 56(j)(ii) is in order and we therefore uphold the same.

14. In the result, the application fails and is dismissed. No order as to costs.

C. Ramakrishna
MEMBER(J) 15.4.87


MEMBER(A) 15.4.87

AN

2. The background leading to this application is briefly as follows. The applicant entered service as a Postman in the Post and Telecommunications(P&T, for short) Department on 5.4.1955. His date of birth as recorded in the service book was 26.12.1929. But at the material time, he was working as a Lower Grade Postal Assistant in Hassan Division and was to retire on superannuation on completion of 58 years of age on 31.12.1987.

3. The Review Committee set up to examine the case of officials (who had completed 30 years of qualifying service), who could be weeded out on grounds of inefficiency and corruption, on a critical review noticed, that the applicant who had attained the age of 55 years on 26.12.1985, was unfit for continuance in Government service and therefore proposed that he be retired prematurely, in public interest, under the provisions of the FR. In pursuance, R1 issued the requisite notice of retirement on the applicant on 21.6.1985(Annexure-B) and the same was served on him on 6.7.1985. In the meanwhile, the applicant served on R1 on 6.6.1985(Annexure A), a three months' notice for voluntary retirement, under the provisions of the Pension Rules. This was not, however accepted by the Appointing Authority. In accordance with the notice served by R1, under FR 56(j)(ii) as above, on 6.7.1985, the applicant retired from Government service on 7.10.1985, on expiry of the period of 3 months' notice.

4. The applicant represented on 27.7.1985, against the above order dt.21.6.1985(Annexure B) of premature retirement and requested the respondents, to accept his notice dt.6.6.1985 (Annexure A) of voluntary retirement, instead, so that he could avail of pensionary benefit under the Pension Rules. Since his request was not accepted, he, filed a writ petition in the High Court of Judicature, Karnataka, which has since been transferred to this Bench and is now before us for consideration.

LB

5. Sri M.R.Achar learned counsel for the applicant contended, that the impugned order of premature retirement of the applicant was bad in law, and penal in nature, as no Committee was constituted, as required under law, to review the case of the applicant before passing the impugned order; that there was no record to warrant premature retirement of his client in public interest; that the applicant had sought voluntary retirement, on grounds of health and therefore, the action of R1, of retiring him compulsorily, was illegal and offended ^{the} ~~to~~ the tenets of natural justice, as the order was passed by him, without application of his mind and without scrutiny of the relevant record; that consequently, his client has been denied pensionary benefit due to him, under Rule 48A of the Pension Rules; that premature retirement of the applicant therefore, is penal in nature and the order thereof, having been passed, without holding any enquiry, was violative of the principles of natural justice and of the provisions of Article 311(2) of the Constitution of India.

6. Sri N.Basavaraju, learned counsel for the respondents rebutted each of these contentions. He submitted, that the Review Committee duly constituted, to review the cases of Government employees completing 30 years of qualifying service, for their continuance in service, had critically examined the case of the applicant, who had attained the age of 55 years at the time of review and had noticed that he was not fit for continuance and had therefore, proposed that he be prematurely retired from Government service, in public interest. He denied that the order of premature retirement, was issued merely on receipt of the application from the applicant for voluntary retirement. The applicant was informed by the respondents on 12.8.1985, he said, that his request for voluntary retirement could not be considered. He stressed, that premature retirement of the applicant, was in public

18

interest, as borne out by his service record, and was in accordance with the rules, which did not necessitate any enquiry into the matter, as contended by the applicant.

7. We have examined carefully the rival contentions and have gone through minutely, the relevant record, including the proceedings of the Review Committee. We notice, that the service record of the applicant has not been without blemish, from 1969-70 onwards, to 1984-85, the year preceding his premature retirement. In fact, for three consecutive years, prior to his premature retirement, he is seen to have been involved in one or other of the irregularities relating to cash transaction. The counsel for the applicant was shown by us, the proceedings of the meeting of the Review Committee held on 7.6.1985 (relating to review of the case of the applicant among others) to know the factual background. Scrutiny of the record placed before us, reveals, that the applicant was alerted well in time, about his unsatisfactory performance in work, so that he could make amends. In fact, the Review Committee, which earlier examined his case on 22.12.1984, warned him to improve his work and conduct and gave him to understand clearly, that his case would be reviewed again, in the next quarter ending on 31.3.1985. In 1984, the applicant was seen to have been involved in disciplinary proceedings, for certain grave irregularities relating to National Savings Certificates, for which, he was punished by way of recovery of the loss caused to Government and stoppage of his increment. He was adversely commented upon on 25.3.1985 by the Superintendent of Post Offices, Hassan, for certain irregularities noticed in his duty, in regard to National Savings Certificates and payment of arrear claims. It is apparent from the foregoing, that the service record of the applicant, was not only unsatisfactory for a fairly long spell but was gravely adverse, reflecting on his integrity and that he did not show improvement in

SA
1

spite of the warning given to him to make amends.

8. The Review Committee which met on 7.6.1986, observed that the applicant was of doubtful integrity and that he had not shown improvement in his conduct, despite his being alerted in this respect, as the Special Report of the Superintendent of Post Offices, Hassan, revealed. ^{He} ~~Those~~ above Committee therefore found him unfit, for continuance in Government service. This Committee was duly constituted under the rules and was composed of R1 and R2 who were, high officials of the Post and Telegraphs department.

9. The principle underlying FR 56(j), is, that a balanced view has to be struck between the rights of Government servants and the demands of public policy. As observed by the Supreme Court in J.N.SINHA's Case 1971, while it is necessary for efficient administration, that the public servant should enjoy a sense of security and guaranteed minimum service, it would be in public interest to chop off deadwood and to that end, Government is invested with power to energise its machinery and to render it more efficient, by retiring prematurely those, who in its opinion, should not be retained in public interest. In the STATE OF U.P. v. CHANDER MOHAN NIGAM 1977, the Supreme Court further observed, that such a provision is a salutary safeguard in Government's armoury, to keep the services trim and fit. This provision serves as a constant reminder, to the indolent and the inefficient, not to speak of those incorrigibly corrupt and dishonest, that at a reasonable stage in service, it is time nigh, that Government has an undoubted right, to have a second look at the officers as to whether their continuance is in public interest or not.

10. The service record of the applicant to which we have referred above, amply shows, that despite the opportunity given to him by the respondents, to turn a new leaf in the discharge of his official duty, he showed no improvement, but continued to slip

PC
→