

✓

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 191/91

~~Transfer Application No:~~

DATE OF DECISION 7.4.93

Shri S.B. Shinde

Petitioner

Shri S.P. Saxena

Advocate for the Petitioners

Versus

The Dy. Director General of
Meteorology, Poona. and Anr.

Respondent

Shri R.K. Shetty

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri V.D. Deshmukh, 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 ?
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 ? *Yes*

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

NS/

7

9

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 191/91

Shri S.B. Shinde

... Applicant.

V/s.

The Dy. Director General of
Meteorology
Indian Meteorological Department
Shivajinagar
Poona - 411005

The Director General of
Meteorology
" Mausam Bhawan "
Lodhi Road
New Delhi - 411003.

... Respondents.

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

Hon'ble Shri V.D.Deshmukh, Member (J)

Appearance:

Shri S.P. Saxena, counsel
for the applicant.

Shri R.K. Shetty, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 7.4.93

¶ Per Shri M.Y.Priolkar, Member (A) ¶

The applicant in this case, who is an employee of Indian Meteorological Department, was informed by memorandum dated 30.4.90 the opinion of Standing Medical Board, Sassoon General Hospital, Pune- 1 by which the applicant was completely and permanently incapacitated for further service in the department in consequence of " Chronic Paranoid Schizophrenia " vide their certificate dated 7.3.1990. He was also informed by the said memorandum that in case he has any appeal to make against the verdict of the Standing Medical Board, he may submit it to the office within 30 days of the receipt of the memorandum. The applicant made the representations within the time limit prescribed which was one month. By representations dated 8.5.90 and 28.5.90, he requested the department to send him to higher medical authorities, enclosing therewith a fitness certificate from

Dr. V.R.Deo, Former Head of Psychological Department of Sassoon General Hospital and of the Central Mental Hospital, Yerawada, Pune. The department however did not take any action to refer the applicant for the opinion of second Medical Board and he was boarded out from 1.6.1990 on invalid pension. The prayers in this application are for the forced retirement of applicant on medical ground with effect from 1.6.90 be declared as illegal, payment of salary for the month of May 1990 during which he was not allowed entry in the office and also for employment of atleast one dependent of the applicant on compassionate grounds if the applicant is not reinstated in service.

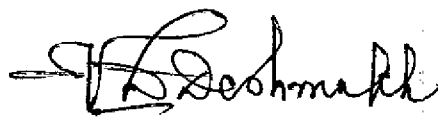
2. The rules on the subject of medical invalidation of government servants are contained in Central Civil Services Medical Examination Rules 1957. Government of India has also issued certain instructions under memorandum dated 12.9.63 regarding the action required to be taken by the Medical authorities as well as the department. Under clause 5(2)(b) of these instructions, a Government servant declared by the examining medical authority to be permanently incapacitated for further service, should be given an opportunity to submit, if he so desires, within a period of one month, a request to be examined by Medical Review Board supported by prima facie evidence that good grounds exist for doing so. It is not in dispute that the applicant had submitted his representation for being examined by the Medical Review Board within the stipulated period of one month. According to the learned counsel for the applicant, along with the representation a medical certificate dated 16.12.1989 of Dr. V.R. Deo, formerly of Mental Hospital was enclosed. According to the learned counsel for the respondents, the applicant should have obtained the medical certificate of a date

subsequent to the date of communication to him about his proposed retirement from service i.e. the certificate should have been of any date after 30.4.90. After perusing the rules we do not find any such requirement in the rules that the employee should submit the medical certificate of a date subsequent to the date of communication informing him of the invalidation of service to justify that there are good grounds for asking for a review. Admittedly, the examination by the first Medical Board was on 20.11.89, although the certificate was issued by the Medical Board in March '90 and the department's communication asking the applicant to appeal within one month, if necessary, was dated 30.4.90. The certificate produced by the applicant was dated 16.12.89, which was subsequent to the date of his medical examination by the Medical Board. In our view, the department authorities are not justified in rejecting the representation of the applicant for examination of medical Review Board merely on the ground that the medical certificate was a belated one. In fact it was subsequent to the medical examination of the Medical Board of which the applicant was seeking a review by a higher Medical Board.

3. Accordingly we quash and set aside the order dated 5.6.90, retiring him from the Government service with effect from 1.6.90 on invalid pension. He shall be deemed to have continued in service until the normal date of his superannuation, namely 30.6.92. He will also be entitled to salary including increments minus pension already paid till that date. His retirement benefits will also be calculated after taking into account his salary payable during this period in accordance with the rules. He will also be entitled to salary for the month of May 1990 during which admittedly he

To
was asked not ~~be~~ attend to duty prior to his forced retirement on 1.6.90. Since he has now ~~been~~ deemed to have retired on superannuation, he will not be entitled to appointment of his dependent on compassionate grounds. The prayer in this regard is rejected.

There shall be no order as to costs.



(V.D. Deshmukh)
Member(J)



(M.Y. Priolkar)
Member (A)

NS