

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Dated: ~~4 DEC 1993~~

APPLICATION NO(s) 327 of 1993.

4 JAN 1994

APPLICANTS: V.R.Kulkarni v/s. RESPONDENTS: Secretary, Dept. of Posts,
New Delhi and Others.

TO.

1. Sri.V.V.Balan, Advocate,
No.75, Muddappa Road Cross,
Maruthis evanagar, Bangalore-33. → *for V.V.Balan
(V.R.Kulkarni)*
2. Sri.G.Shanthappa, Addl.Central
Govt.Stng.Counsel, High Court Bldg,
Bangalore-1.
3. The Director of Postal Services,
Office of the Post Master General,
N.K.Region, Dharwad-580001.

SUBJECT:- Forwarding of copies of the Orders passed by
the Central Administrative Tribunal, Bangalore.

-XXX-

Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 03-12-1993.

Dee *Dee*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

Desired
gm

CENTRAL ADMINISTRATIVE TRIBUNAL:

BANGALORE BENCH:BANGALORE

O.A. NO.327/1993

FIRDAY THIS THE THIRD DAY OF DECEMBER 1993

Shri Justice P.K. Shyamsundar ... Vice Chairman

Shri V.Ramakrishnan ... Member [A]

V.R. Kulkarni,
[Sorting Assistant],
S.R.O. Belgaum,
Residing at 'B' Type Qtrs.,
Belgaum Mal Maruthi Extension,
BELGAUM-590 016.

... Applicant

[By Advocate Shri V.V. Balan]

v.

1. Union of India
the Secretary,
Dept of Post,
Dak Tar Bhawan,
NEW DELHI-110 001.

2. The Director of Postal Services,
O/o Postmaster General,
N.K.region,
Dharwar-580 001.

3. The Supdt. RMS,
HB DIVISION,
Hubli-580 028.

... Respondents

[By Advocate Shri G. Shanthappa ...
Addl. Central Govt. Standing Counsel]

O R D E R

Shri Justice P.K. Shyamsundar: Vice Chairman:

1. Admit. We have heard Shri V.V. Balan for the applicant and learned Standing Counsel for the respondents. The applicant herein was ordered to be compulsorily retired after expiry of notice period as per order Annexure I dated 16.3.1992. The order

as aforesaid reads as follows:

"WHEREAS the Superintendent, RMS 'HB' Division, Hubli-580 028 is of the opinion that it is in the public interest to do so;

NOW, THEREFORE, in exercise of the powers conferred by Clause [1][b] of Rule-48 of the Central Civil Services [Pension] Rules, 1972, the Superintendent RMS 'HB' Division, Hubli-580 028 hereby gives notice to Shri V.R. Kulkarni, Sorting Assistant, SRO RMS 'HB' Division, Belgaum, that he, having completed thirty years of service qualifying for pension on 14.3.1992, shall retire from service on the forenoon of the day following the date of expiry of three months computed from the date following the date of service of this notice on him."

From the aforesaid order the applicant preferred an appeal which was disposed off as per Annexure 4 dated 23.7.1992 rejecting the appeal as bereft of any substance and hence this application. Herein the applicant contends the action taken to order his premature retirement from service from the Postal Department where he was working at the relevant time as Sorter, is arbitrary, mala fide, unreasonable, etc. In particular, he asserts that on the date of the impugned order he could not be treated as having completed 30 years of qualifying service regard being had to the fact that he had to his credit more than 3 months of service treated as dies-non. It may be mentioned that this is a case of retirement under Section 48 of the Central Civil Services [Pension] Rules which enjoins completion of 30 years of service before action can be taken to retire a person under the aforesaid rules. It was contended by the applicant that he fell short of the period of 30 years if regard is had to the 3 month period treated as dies-non. This argument as aforesaid would be of some force and in all probability would have carried the day. But then we have his service record before us and those

records inform us that his total length of service from 1962 to 1992, the period of dies non was only 15 days. It is seen that the man began his career in the department on 28.2.1962 and by the date of the impugned order if he had suffered only a two week period on dies non basis, even if that two week period is excluded it becomes clear that by the date of the impugned order he would have completed 30 years service. The order, therefore, does not suffer from any technical defect which is the main point posed for our consideration. The said point fails and is rejected.

2. In regard to the other aspect, we have gone through the record of service and find that his track record was somewhat dismal. The man had suffered a galore of punishments described adequately in para 3 of the reply statement. The relevant portion of para 3 of the reply reads as follows:-

1. 18.9.66 - Increment withheld for 3 months.
2. 31.7.71 - Severely warned.
3. 29.3.72 - Cost of canvas bags recovered.
4. 25.2.76 - Cost of 3 missing locks recovered.
5. 29.3.76 - Censured.
6. 30.6.76 - Increment withheld for one month.
7. 19.7.78 - Compulsorily retired - on appeal reinstated with punishment of reduction of pay by 2 stages for 3 years.
8. 15.10.80 - Increment withheld for 2 years.
9. 1.8.81 - Increment withheld for 3 years.
10. 29.11.81 - Increment withheld for 3 years.
11. 8.7.85 - Increment withheld for 3 years.
12. 12.1.88 - Increment withheld for 1 year.



13. 24.5.88 - Censured.

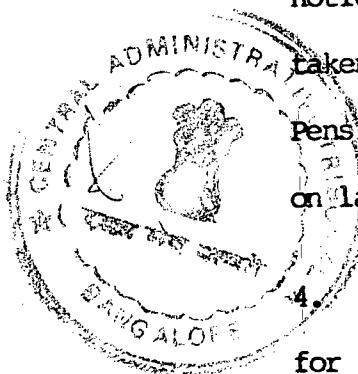
14. 28.9.88 - Censured

15. 14.8.89 - Increment withheld for one year."

It is clear that regard being had to the above, the applicant's track record was not all that good the man having earned a number of punishments at regular intervals. It was apparently found that the applicant was one of those who had outlived their utility to the department and had necessarily to exit. We are satisfied that the department had taken the step of ordering his premature retirement not on any whimsical or fanciful grounds as there were apparently strong reasons for getting rid of the applicant before time. The allegations of malafides, arbitrary etc., have been denied and we see no reason not to accept the denial.

3. It is now well settled by the decisions of the Supreme Court that the power of compulsory retirement is invariably made use of to get rid of officials who have become dead woods who are found not fit to continue in public service. The applicant is one such character and that becomes clear regard being had to his service record which amply demonstrates his lacklustre career to which there is adequate reference in the reply statement as noticed by us supra. In those circumstances the department having taken action to retire him compulsorily under Rule 48A of the Pension Rules, the same was legally justified both on facts and on law. We would, therefore, support the impugned order.

4. But then a point is made out by Shri Balan, learned counsel for the applicant, that the instructions regarding retirement require that the appropriate authority should record in the file that it had formed a definite opinion to retire the government



servant under the rule in public interest. Those instructions referred to is in Appendix 10 which reads as follows:

"INSTRUCTIONS REGARDING PREMATURE RETIREMENT OF CENTRAL GOVERNMENT SERVANTS:

xxxxx

Rule [4] The appropriate authority shall take further action for the recommendations of the committee. In every case, where it is proposed to retire a Government servant in exercise of the powers conferred by the said rule[s], the appropriate authority should record in the file that it has formed its opinion that it is necessary to retire the Government servant in pursuance of the aforesaid rule[s] in the public interest. ..."

Just to test check whether the requirement as aforesaid is complied with in the case of the applicant, we called for the records and found that the appropriate authority namely Superintendent, RMS HB Division has recorded such a minute. The said minute reads--

"I agree with the findings of the high power committee and action be initiated to issue notice of retirement as prescribed in the rules in the proper form after getting the service verified from DDA[P], Bangalore."

The above minute makes it clear that the Rule 4 of Appendix 10 is clearly followed and objection to the contrary is untenable.

5. Having considered all the submissions made and having perused the entire records we are of the view that the applicant has not made out any case for interference on merits.

6. In the result this application, therefore, fails and is dismissed. No costs.



Sd/-
MEMBER [A]

bsv

TRUE COPY

Sd/-
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
VICE CHAIRMAN

4/1/94
4/1/94