

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 858/93

Dated this _____ the ___th day of 29 June 2000.

G.M. Mahale

Applicant

Mr. S. S. Karkera

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents.

Mr. V. S. Masurkar

Advocate for the
Respondents.

CORAM :

Hon'ble Shri L. Hmingliana, Member (A)
Hon'ble Shri Rafiq Uddin, Member (J)

(i) To be referred to the Reporter or not ? Yes
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ? No
(iii) Library.

(L. Hminglian)
Member (A).

H.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.658/93

Dated this 23rd the Day of June, 2000.

Coram : Hon'ble Shri L. Hmingliana, Member (A)
Hon'ble Shri Rafiq Uddin, Member (J)

Shri Gangadhar Maoji Mahale,
34, Usha Kiram Society,
Trimbak Road,
Nasik - 422 002.

... Applicant

(By Advocate Shri S.S. Karkera)

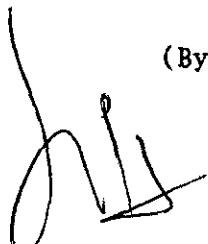
Vs

1. Union of India, through
the Secretary,
Ministry of Forest & Environment,
Paryawaran Bhavan,
C.G.O. Complex,
Lodi Road, New Delhi.
2. Dy. Secretary to the
Government of India,
Ministry of Forest &
Environment, Paryawaran Bhavan,
C.G.O. Complex, Lodi Road,
New Delhi.
3. The Secretary to the
Government of India,
Ministry of Personnel & Training,
Administrative Reforms & Public
Grievances and Pension,
New Delhi.
4. The State of Maharashtra,
through the Chief Secretary,
Mantralaya, Bombay-32.
5. The Principal Secretary,
(Forests), Revenue & Forests
Department, Mantralaya,
Bombay-400032.
6. Dy. Secretary to the
Government of Maharashtra,
Revenue & Forests Department,
Mantralaya, Bombay-400032.
7. The Principal Chief Conservator
of Forests,
Jaika Building, Civil Lines,
Nagpur.

... Respondents.

(By Advocate Shri V.S. Masurkar).

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O R D E R
{ Per : Shri L. Hmingliana, Member (A) }

The applicant was an Indian Forest Service on promotion from the State Forest Service of the Government of Maharashtra. He was retired from service with immediate effect vide order dated 1.6.1993 issued by the Department of Environment & Forests, Government of India. His O.A. is against that order.

2. His date of birth was 15.8.1936 and Review Committee considered his ACRs in its meeting held on 18.11.1989 and recommended that there was enough material to justify his premature retirement and the State Government recommended his premature retirement to the Department of Environment & Forests and after consultations with the UPSC, the impugned order was issued by the Department of Environment & Forests on 1.6.1993 in exercise of powers conferred by sub-rule (3) of Rule 16 of the All India Services (Death-cum-Retirement-Benefits) Rules 1958. The order was communicated to the applicant by the Revenue & Forests Department of the Government of Maharashtra by letter dated 2.7.1993 informing him of the order and that he stood retired from the service with immediate effect. The applicant was not given ^{the} usual 3 months notice for his premature retirement, but in lieu of notice he was paid his salary for 3 months.

3. The applicant received ~~the~~ adverse remarks in his ACR for the year 1984-85 vide letter dated 17.2.1987 of the Revenue & Forests Department of ^{the} Government of Maharashtra. He preferred a detailed representation on 17.3.1987 and the representation came to be rejected on 16.1.1990. The applicant was also placed under suspension by order dated 5.6.1987 of the Revenue & Forests Department of Government of Maharashtra and he was reinstated in

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service by order dated 4.3.1989 of the same department. His Learned Counsel Shri S.S. Karkera pointed out that the departmental inquiry was also initiated against him, but no final order was issued on the basis of the departmental inquiry.

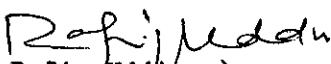
4. It was the contention of Shri S.S. Karkera that retiring him to with prematurity was a short cut method resorted to by the Government for getting rid of the applicant from service instead of passing final order on the departmental inquiry. The Learned Counsel cited the judgment of the Supreme Court in H.C. Gargi Vs. State of Haryana (1986)4 SCC 158, wherein the Supreme Court held that the adverse entries in the ACR of the subject person do not show his doubtful integrity and the test of public interest laid down in Col.J.N. Sinha's case was not satisfied and the order of compulsory retirement was held to suffer from non application of mind.

5. On the other hand, the respondents learned Counsel Shri V.S. Masurkar cited the judgment of the Supreme Court in State of Punjab Vs. Gurdas Singh, (1998) SCC (L&S) 1004, wherein the Supreme Court held that the entire service record of a government servant has to be taken into consideration while assessing his/her fitness to continue in service after completing the prescribed period for premature retirement and that adverse remarks earned prior to promotion and un-communicated adverse remarks does not render invalid the premature retirement.

6. The judgment of the Supreme Court was delivered by a Bench of 3 Judges whereas the judgment cited by Shri S.S. Karkera was decided by a Bench of 2 Judges and 12 year earlier. Then we have to follow the judgment cited by Shri V.S. Masurkar.

7. We have seen the ACRs of the applicant and the minutes of the meeting of the Review Committee which recommended his premature retirement. We find that the recommendation made by the Committee was based upon the remarks in the ACRs of the applicant. The ACRs contained remarks that his integrity was doubtful and there is a lengthy note recorded by the Reporting Officer to support that. We find no merit in the application.

8. The application is therefore dismissed with no order as to costs.


(Rafiq Uddin)
Member (J)


(L. Hmingliana)
Member (A).
26/2/2000

H.