

W0

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD :

OA No.273 of 1987.

Date of Judgment : 23-4-1990

1. E.Emanuel (Died)
2. E.Priya Darsini
3. E.B.R.U.J.B.Kumar
4. Nani Ratna Chandra Sekhar Babu
5. E.S.S.S.S.Kirti Raju
6. E.Indira Grace Mani

Vs.

...Applicants 2 to 6 are  
are brought on record as lrs  
of 1st applicant.

1. Senior Commercial Superintendent,  
Vijayawada, South Central Railway.
2. Divisional Railway Manager,  
Vijayawada, South Central Railway.

...Respondents

----

Counsel for the Applicants : Shri M.Lakshmana Sarma.

Counsel for the Respondents : Shri N.R.Dev Raj  
SC for Railways.

-----

CORAM:

Hon'ble Shri B.N.Jayasimha : Vice-Chairman

Hon'ble Shri J.Narasimha Murthy : Member (Judl)

(Judgment of the Bench delivered by Hon'ble  
Shri B.N.Jayasimha, Vice-Chairman).

----

The applicant herein was a Travelling Ticket  
Inspector, Vijayawada Station, office of the Senior  
Divisional Commercial Superintendent, Vijayawada. He  
has filed this application challenging the order  
compulsorily retiring him from service, issued in  
pursuance to Cl.(b)(ii) of Rule 2046, R-II, Railway  
Establishment Code by the Senior Divisional Commercial  
Superintendent, South Central Railway, Vijayawada in  
his order No.B/P/Con.579/I/Comm1/85-86 dated 24-3-86.

bv

P.1  
78  
24.5.90

contd...2.

41

- 2 -

2. The applicant states that he was appointed on 29-5-1984 as Ticket Collector and posted to work at Rajahmundry. Thereafter, he was promoted as Travelling Ticket Examiner in 1964. He was again promoted as Conductor in 1983. In 1984 he was promoted as Travelling Ticket Inspector. For the first time in his career, the Divisional Railway Manager, Vijayawada sent a communication through proceedings No.8/G/Con/CRC/Comm1.SCR dated 24-2-86 conveying certain adverse remarks pertaining to the period ending with 31-3-1985. The applicant submitted his representation dt. 20-3-86 against these remarks and no orders were passed thereon disposing of his appeal against the adverse remarks.

3. While this was so, the impugned order dt. 24-3-86 was passed compulsorily retiring him from service on completion of 55 years of age. The order says that it has been passed in public interest. As required in the accompanying memorandum bearing the same reference number and date, the applicant submitted an appeal dated 9-4-86 against the order of compulsory retirement. No orders have been passed disposing of that representation so far. Hence he has filed this application.

cbntd..3.

42

- 3 -

4. The applicant contends that the order has been passed without any application of mind. The entire record of the applicant has not been considered objectively. Since he was promoted in 1984 to the present post of Travelling Ticket Inspector, his service record subsequent thereto only can be considered for the exercise of the power under rule 2046(h). During the said period, except the above stated void orders of adverse remarks, there is no other valid material upon which the impugned order could be based.

5. The respondents in their counter state that the applicant was compulsorily retired on a review of his performance and his conduct as a Railway Servant. The applicant did not submit any representation against the order of compulsorily retirement as alleged by him. He has filed this Original Application with a false allegation that he submitted a representation on 9-4-1986. No such representation was received by the respondents. The respondents further state that the contention of the applicant that he had an unblemished service record is not correct. The adverse remarks in the Annual Confidential Records ending 31-3-85 was communicated to him. The applicant

801  
P3 58 did not prefer any appeal or representation on 20-3-86  
contd..4.

(43)

- 4 -

is false. The applicant was found sleeping in the Ist Class A.C.Coatch between Vijayawada and Eluru without any valid travel authority on 30-10-85.

The power under rule 2046(h) has been exercised properly on review of the service record of the applicant.

6. As the applicant died after the filing of the application, the LRs have been brought on record. We have heard the learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the Railways. From the averments made, it is seen that while the applicant contends that he had submitted representation against the adverse remarks and also the order of compulsory retirement, the respondents state that no such representation has been recorded. The learned counsel for the applicant<sup>y</sup> unable to show any material in support of the contention that representations were submitted. Shri N.R.Devaraj, who has produced the relevent file says that the record do not show any representation. We have also perused the records and we are unable to accept the

BN

contd..5.

By  
the  
Director

(14)

- 5 -

plea that the order is not in consonance with the requirement of Rule 2046(h). In the result, the application fails and is dismissed. No order as to costs.

*B.N. Jayasimha*  
(B.N. JAYASIMHA)  
Vice-Chairman

*J.N. Narasimha Murthy*  
(J. NARASIMHA MURTHY)  
Member (J)

Dated: 23<sup>rd</sup> April, 1990.

*J. Narasimha Murthy*  
For Deputy Chairman (J)

avl/

To:

1. The Senior Commercial superintendent, Vijayawada, south central railway.
2. The Divisional Railway Manager, Vijayawada, south central railway.
3. One copy to Mr. M. Lakshmana Sarma, Advocate, A-205, Matrusri Apartments, Hyderguda, Hyderabad-500 029.
4. One copy to Mr. N. R. Devaraj, SC for Railways, m CAT, Hyd.
5. One ~~copy~~ spare copy.

...

kj.

*Recd by  
24/4/90*