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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.518 of 1995

DATE OF JUDGMENT: 19th March, 1998

BETWEEN:
K.GOPALA KRISHNA

.. APPLICANT

AND

Union of India represented by:

1. The Director General,
Department of Posts,
New Delhi,
2. The Chief Post Master General,
Hyderabad,
3. The Director of Postal Services,
Office of the Post Master General,
Visakhapatnam,
4. The Superintendent,
RMS 'V' Division,
visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.KSR ANJANEYULU

COUNSEL FOR THE RESPONDENTS: Mr.K.BHASKAR RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.KSR Anjaneyulu, learned counsel for the applicant and Mr.K.Bhaskar Rao, learned standing counsel for the respondents. Mr.Kailasa Prasad, the present Post Master General, Visakhapatnam was present on 10.3.98 and Mr.R.S.Natraj Murthy, the then Post Master General, Visakhapatnam who was in the Committee for reviewing the case of the applicant before recommending for compulsory retirement of the applicant under the relevant rule was present on 12.3.98.

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2. The facts of this case are as follows:-

The applicant was initially appointed as Sorter in RMS wing of the Postal Department on 19.4.63. He was promoted to LSG under 1/3rd merit quota of vacancies with effect from 2.9.83. He was allowed to cross Efficiency Bar in 1993. He had completed 30 years of qualifying service in the Department as on 18.4.93. The case of the applicant was reviewed along with all other officers of the Region who had completed 30 years of qualifying service/55 years of age for the quarter ending 30.3.93 under the provisions of DG(P) letter No.135/133/77/SPB II dated 15.3.78. The Review Committee was constituted with the Post Master General, Visakhapatnam as the Chairman and the Director of Postal Services, Hyderabad Region holding the additional charge as the Director of Postal Services, Visakhapatnam as the Member and that Committee met on 26.1.94 at Hyderabad. On review of the Confidential Report Dossiers of the applicant, the Committee found that the applicant had come to adverse notice on several occasions for his unsatisfactory service and he was imposed a number of punishments and hence it was considered not to recommend the case of the applicant for continuance in service beyond 30 years of service and he was recommended for retirement prematurely in public interest. Accordingly, a 3 months' (premature retirement) notice was issued to the applicant as required under Rule 48 of the CCS (Pension) Rules, 1972 vide memo No.ST/91-93/III dated 30.8.94 (Annexure I to the OA) which was received by the applicant on 21.9.94. In response to the notice, the applicant submitted a

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representation dated 3.10.94 which was forwarded to the DG(P) vide Office letter NO.ST/91-93/III dated 22.12.94. The Representation Committee at the office of the DG(P), New Delhi had considered the representation of the applicant taking into account his overall record and rejected with the approval of the Secretary (P) stating that the Committee found no reasons to interfere on behalf of the applicant and hence the applicant was ordered to be retired from service by the Review Committee due to unsatisfactory record of service but not on the ground of ineffectiveness. He was finally retired by the order No.ST/91-93/III dated 22.3.95 (Page 11 to the OA).

3. This OA is filed to set-aside the impugned order No.ST/91-93/III dated 30.8.94 and also the order of the Post Master General in his letter No.ST/91-93/III dated 22.3.95 communicated under ^{the} Superintendent RMS 'V' Division, Visakhapatnam letter No.PF/KGK/II dated 27.3.95 to retire the applicant prematurely, by holding them as arbitrary, illegal, and unsustainable in law and for a consequential direction to the respondents to reinstate him w.e.f. 22.12.1994, the date on which the charge was forcibly taken over from him, with all consequential benefits and ^{be} continue him in service till the date of superannuation.

4. There are two main contentions in this OA. they are as follows:-

(i) The impugned notice dated 30.8.94 (Annexure I at page 9 to the OA) issued by the Director of Postal Services is not in ^{the} public interest. It is arbitrary,

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illegal and unconstitutional in law;

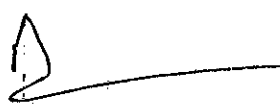
(ii) The right to retire is not absolute. The respondents cannot take away the livelihood of ^{an} ~~the~~ employee without an objective review of his record. The compulsory retirement is arbitrary exercise of power and hence bad in law. The guidelines clearly state that the premature retirement should not be used to retire a Government servant on the ground of specific acts of misconduct as it would mean a short cut method instead of initiating formal disciplinary proceedings. Hence the action initiated under Rule 48 of the CCS (Pension) Rules is unsustainable and liable to be set-aside.

The applicant was found fit to cross the Efficiency Bar in the year 1993. Thereafter he was awarded the penalty of Censure and withholding of increments. The applicant was representing against the penalty of stoppage of increments but the respondents having allowed him to cross the Efficiency Bar in the year 1993 cannot retire the applicant prematurely under the said rule taking into account only the punishment that was inflicted on him after he crossed the Efficiency Bar. He was allowed to cross the Efficiency Bar because of his unblemished record of service for 31 years. That has been ignored and a minor punishment given subsequent to crossing of the Efficiency Bar was taken into account for prematurely retiring him under the said rule. Once he crossed the Efficiency Bar, his past record of service even if it is not upto the mark should have been ignored as his service was found to be good for ^{promoting} ~~making~~ him to cross the Efficiency Bar. Hence issue of the

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impugned orders are irregular, arbitrary and cannot be sustained.

5. A reply has been filed in this OA. The respondents submit that the entire record of service of the applicant is to be taken into account before retiring him under the said rule and that was done. His unsatisfactory service and imposition of a number of punishments during his career as seen from the Confidential Report Dossiers were taken into account and it is not correct to say that "the penalty of premature retirement was imposed on the applicant based on the lone instance that he travelled in the Mailvan unauthorisedly after he crossed the Efficiency Bar". Withholding of increment for a period of six months imposed on him by the memo dated 23.6.94 was not taken into account at the time of review, as the appeal of ^{the} applicant against the said penalty was pending with the appellate authority at that time. Hence they deny the contention of the applicant that he was ordered to be retired prematurely based on the incidence of punishment of withholding one increment for a period of six months imposed on him for travelling in a Mailvan while ^{he was} ~~not~~ on duty. The representation of the applicant dated 3.10.94 was also rejected by the DG(P) with the approval of the Secretary (P) by the memo dated 7.3.95 in which it was clearly stated that the representation committee taking into account the over all record of service of the applicant herein found no reasons to interfere in the case of the applicant and hence the representation was rejected and the applicant was retired prematurely in the public interest.



6. The respondents further submit that to cross the Efficiency Bar, a DPC was constituted on 30.3.93 consisting of SRM 'V' Division, ADPS-II, Office of the PMG, Visakhapatnam and the Superintendent I/C, CTS, Visakhapatnam. The DPC met on 30.3.93 and permitted the applicant to cross the Efficiency Bar. That was the lower level Committee whereas the review committee^{which} met on 26.1.94 was a higher level committee constituted with the PMG, Visakhapatnam and DPS (holding additional charge as DPS, Visakhapatnam) as Chairman and Members respectively. Allowing the applicant to cross the Efficiency Bar by the lower authority to facilitate him to draw the increments has no relevance or bearing on the decision of the reviewing Committee constituted with higher level authorities in recommending for retirement after completion of 30 years' of service under the provisions of Rule 48 of the CCS (Pension) Rules. In view of what is stated above, the respondents submit that the OA is liable to be dismissed.

7. Before we analyse this case on merits, it is necessary for us to note the observations of the Ernakulam Bench of the Central Administrative Tribunal for retiring prematurely an employee under FR 56(j). In the reported case in AISLJ 1995 (1) (CAT) 198 (Dr.MSN Balasubramanian v. Union of India and another), the said Bench observed as follows:-

"From various cases cited in this case the guidelines emerge as - (1) order under FR 56(J) is not a penalty; (2) The order is to be passed in public

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interest; (3) The satisfaction of authorities will be subjective; (4) Principles of natural justice do not apply here; (5) Orders are subject to judicial review; (6) But Court cannot set in appeal over orders of authorities; (7) Entire service record will be considered though more recent one will be given more weightage; (8) Bad record before promotion based on merit loses its sting; (9) Even uncommunicated remarks may be considered; (10) Orders can be challenged only on the basis of malafide, arbitrariness, perversity; (11) Not following the departmental guidelines is no ground for challenge; (12) Order need not be a speaking order".

The above guidelines of the Ernakulam Bench are also in accordance with the judgement of the Supreme Court reported in 1996 SCC (L&S) 28 (Union of India v. Ajoy Kumar Patnaik). It is observed in that reported case that "Conduct in discharge of, if casting reflecting upon the concerned officer's reputation, integrity or devotion to duty as public servant, held, amounts to misconduct and is amenable to disciplinary proceedings. Hence, can be taken into consideration to form a bona fide decision in public interest to compulsorily retire that officer under FR 56(j)".

8. It was held in the reported case in 1994 SCC (L&S) 1077 (S.S. Marwah v. Union of India) that, "His overall record for the past 5 years or so showing that he had slackened down and did not exercise the control

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expected of him over his subordinates and that he did not show sufficient interest in the discharge of his duties resulting in omissions and irregularities in the performance thereof - Held the retirement of the appellant was in public interest and hence the order of compulsory retirement was unsailable."

9. From the above, it is evident that an employee can be retired in public interest due to slackness in his duties, ineffective control, not devoted to his work etc. as these qualities are treated to be against public interest when a Government servant who has been posted to serve public is not discharging his duties properly, devotedly and in accordance with the various instructions issued from time to time. From the above statement it is evident that whether the applicant was discharging duties in accordance with the parameters laid down above, is to be decided by the authorities. It is not for the courts or the Tribunals to decide the issue whether retirement was in ~~the~~ public interest or against the public interest as the courts or the Tribunals cannot have wherewithal to decide the issue. It is for the department to decide whether continuance of the applicant is ~~*****~~ in public interest ^{or not}. If they come to the inclusion that his continuance is not proper as he is not discharging duties in the interest of public, appropriate action can be taken by the Department. Hence the first contention raised by the applicant that his retirement is not in public interest cannot be adjudicated by this Tribunal as the respondents have come to the conclusion that his continuance is not in public interest on the basis of the record. But whether such a decision taken

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is arbitrary and without applying their mind can definitely be ~~seen~~ ^{looked into} by the Tribunal by going through the records wherein qualities of the applicant have been indicated under the various headings.

10. The second contention of the applicant is that his past record was in order when he has^d been found fit for crossing Efficiency Bar and after he was allowed to cross the Efficiency Bar, retiring him immediately thereafter is nothing but vindictiveness on the part of the respondents. The punishment given after he crossed the Efficiency Bar should not be taken into account while deciding his premature retirement under the said rule.

11. Both the contentions raised by the applicant as indicated above are ~~are~~ related to each other. Hence both are to be analysed together and on that basis the OA is to be disposed of. Hence the contentions raised by the applicant are analysed as follows:-

The proceedings of the Departmental Promotion Committee which met on 30.3.93 had observed as follows while allowing him to cross the Efficiency Bar:-

"The DPC has gone through the CRs/Service books and other connected records and satisfied about the conditions for crossing EB of the above officials (Item 2 is the applicant in that list) and found fit for crossing EB with effect from the dates noted against each above (with effect from 1.5.93 in the case of the applicant)".

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From the above proceedings, it is evident that the said DPC had recommended the case of the applicant for crossing EB after going through the CR and service books and other connected records. The committee satisfied about the conditions for crossing EB of the applicant and allowed him to cross the EB with effect from 1.5.93. Nowhere it is stated that the applicant's record was dismal. Though it is stated that the applicant had a number of punishments earlier to the date the DPC met for considering his case for crossing the EB, the Committee after seeing the record of punishments, allowed him to cross the EB. Hence it cannot be said that the committee which allowed him to cross the EB was not aware of the punishments imposed on the applicant before 1.5.93. In spite of that, the applicant was allowed to cross the EB stage.

12. The Review committee which met on 26.1.94 in connection with the review of the premature retirement of the case of certain Government servants for the quarter ending 30.9.93 also considered the case of the applicant. The committee which met on 26.1.94 which reviewed the case of the applicant had remarked about the applicant as follows:-

"The case of Shri K.Gopala Krishna (applicant herein), LSG SA, RMS 'V' Division, Visakhapatnam has been reviewed by the committee. Review of C.R. dossiers of the official revealed that he came to adverse notice on several occasions for his unsatisfactory service and was imposed a number of punishments. It is therefore, considered by the Selection

Committee not to recommend the case of the official for continuance in service beyond 30 years of service. The Committee recommends for retirement of the official prematurely in public interest."

From the remarks of the above two Committees, it is evident that one Committee did not view the punishment imposed on the applicant as serious whereas the review committee had held that those punishments are serious. Even though it is stated that the committee which decided crossing of EB is of lower status, it does not mean that the punishments can be ignored by the committee consisting of the members of the lower status as compared to the members of the review committee. The gravity or the effect of the punishment imposed on the applicant is ^{one and the same} whether it is seen by the lower powered committee or the higher powered committee. The guidelines for crossing EB cannot be said to be entirely different from that of the guidelines given to the review committee for premature retirement under the rules, though there may be a minor variation between these two. If at all there is variation it cannot be totally divergent, ~~as~~ one for crossing EB and the other for deciding the case of the applicant for premature retirement. In our opinion, in both the cases, the punishments imposed on the applicant play some part. The review committee consisting of the members of higher status in no way brings down the decision of a committee which allowed the applicant to cross the EB. If the result of the committee for allowing the applicant to cross EB was not in order, then the officers who approved the committee recommendations could have easily rejected it. That authority which approved the

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recommendations of the EB Committee is definitely an officer of higher status compared to the members of the Committee which met to recommend the case of the applicant for crossing EB. When such a decision is taken by a fairly senior officer, such decision cannot be said to be incorrect or inappropriate. Though the respondents in the reply state that crossing of the EB by the applicant was recommended by the Committee of lower status officers, it has no relevance or bearing ^{on} the decision of the review committee, we do not agree to that view point. Hence while deciding the issue recommendations of the committee allowing the applicant to cross EB is also to be taken into account and on that basis the whole case has to be reviewed.

13. The respondents at the time of arguments produced the Office Memorandum No.25013/38/85-Estt(A) dated 7.3.1986. In paragraph 7 of the said Office Memorandum, certain instructions have been spelt out for consideration of record prior to promotion or crossing of EB while retiring an employee prematurely. Those instructions were given on the basis of the Apex Court judgement in the case of "D.Ramasamy v. State of Tamil Nadu (AIR 1982 SC 793)" and "J.D.Shrivastava v. State of Madhya Pradesh (AIR 1984 SC 630)". We feel it necessary to reproduce para 7 instructions of the memorandum:-

"It has been laid down in para II (3) (c) of the Office Memorandum dated 5th January, 1978 that while the entire service record of an officer should be considered at the time of review, no

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employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding five years or when he has promoted to a higher post during that five year period, his service in the higher post has been found satisfactory. However, there may be cases where it becomes necessary to review the record of an officer after he has been allowed to cross the efficiency bar or after he was promoted to a selection or in nonselection post. What are the circumstances in which the entire service record of such an officer could be considered? This question has been of the consideration by the Supreme Court in D.Ramasamy Vs. State of Tamil Nadu, AIR 1982 SC 793. The Supreme Court observed: "After his promotion as Deputy Commissioner there was no entry in the service book to his discredit or hinting even remotely that he had outlived his utility to the Government. If there was some entry not wholly favourable to the appellant after his promotion one might fall back to similar or like entries in the past, read them in conjunction and conclude that the time had arrived for the Government servant to be retired prematurely from government Service....

.....The learned counsel for the State of Tamil Nadu argued that the Government was entitled to take into consideration the entire history of the appellant including that part of it prior to his promotion. We do not say that the previous history of a Government servant should be completely ignored once he is promoted. Sometimes

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past events may help to assess present conduct. But when there is nothing in the present conduct casting any doubt on the wisdom of the promotion, we see no justification for needless digging into the past....."

These observations were approved by the Supreme Court in J.D.Shrivastava Vs. State of Madhya Pradesh, AIR 1984 SC 630. In the light of those observations, the position that emerges is that the period immediately preceding the review (which may be taken as five years) or the period after promotion or crossing of efficiency bar would be of utmost importance. However, if during the aforesaid period of review, there is evidence of deterioration in efficiency or unsatisfactory performance, then it would be in order for the Review Committee to examine the entire service record to arrive at a total picture about the suitability or otherwise of the officer for further retention in service."

From the above instructions it is evident that there is no prohibition on the part of the reviewing committee to review the past record even prior to allowing of an employee to cross the EB but such records are to be reviewed carefully and it is also to be noted by the reviewing committee whether there was any entry in the service book to discredit the employee even remotely that he had outlived his utility to the Government after his promotion or crossing of the efficiency bar.

14. In order to assess the above, we have asked the respondents to produce the confidential reports of the

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applicant for the five years prior to meeting of the committee for EB and the CRs of the applicant after he was allowed to cross the efficiency bar. Those records were produced. We have perused them. We are making it very clear that we are not substituting our opinion over that of the reviewing committee but the CRs were perused to know the possible back ground for the conclusion. In the CRs for the period from 1.4.88 to 16.8.88, the applicant was given the rating 'good' in certain columns and 'average' in certain columns. It is stated that the applicant has got no dealing with the public. His relation with fellow employees and attitude towards the superiors and amenability to discipline is stated as 'satisfactory' and he manages staff reasonably well i.e, his control over the staff is satisfactory. The only adverse remark communicated is stoppage of one increment for one year awarded to him by the memo dated 6.8.88 for failure to furnish the fact of institution of legal proceedings against him for recovery of debits in the court of law and not furnishing the same even when called for. As regards other parameters there were no adverse remarks.

15. In the CR for the period ending 17.8.88 to 31.3.89, the remarks are more or less same as in the previous year. But amenability to discipline and devotion to duty is stated to be not satisfactory. A punishment of Censure is also noted as ^{an} adverse entry.

16. In the CR for the period ending 1.4.89 to 31.3.90 the remarks are more or less similar to the previous years

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but he was given adverse remark of punishment of Censure.

17. In the CR for the period 1.4.90 to 16.1.91 the remarks are more or less same but he was informed as adverse in regard to his attitude towards superiors and amenability to discipline, devotion to duty, industry etc., i.e, they are not upto the marks. A punishment was also informed to him as an adverse remark.

18. A reading of the CR for the period 1.4.91 to 10.3.92 gives us a feeling that he has improved considering to the previous periods. No adverse remark was communicated to him for that year.

19. Similarly for the period from 18.5.92 to 31.3.93 no adverse remark was communicated to him.

20. For the period from 1.4.93 to 31.3.94 i.e, after he crossed the EB, he was rated 'average' and his devotion to duty is stated to be 'not devoted'. In the letter advising the adverse entries in the CR, item 7(v) was to be intimated but the same was cut off. Two punishments namely, Censure and travelling unauthorisedly in a Mailvan ^{are} was indicated.

21. From the above, it appears that the committee for considering for crossing the EB had come to the conclusion that the past record prior to the date when the EB committee met was not adverse enough to ^{prevent him from crossing} ~~****~~ the EB. That view appears to be taken in view of the fact that in the CR for the year from 1.4.91 to 10.3.92 and 18.5.92 to 31.3.93, there were no adverse entries. Though some punishments of Censure and stoppage of increments have been inflicted on

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him after the EB results were announced, the learned standing counsel for the respondents while hearing the case on 12.3.98 submitted that the review committee which met for considering his case for continuing him in service took note of those punishments and hence decided to prematurely retire him even though he crossed the EB. But when we pointed out to the learned counsel that in the reply in para 6 it has been stated that the penalty awarded to him after he crossed the EB has not been taken into account, the learned standing counsel for the respondents submitted that the above remark is a mistake. The remark given in the reply to the OA affidavit is an important and authentic document. If some of the remarks mentioned are to be taken as ^a mistakes that submission could be accepted only if those mistakes are revealed by the records. In the present case though the respondents' counsel submits that those punishments have been taken into account, reply clearly states that those remarks have ^d not been taken into account. Hence there is contradiction. The submission that it is a mistake is not a mere mistake it is a costly mistake. That remark cannot be erased from the reply treating it as a mistake as we find that the reply statement is a very categorical and hence we reject ^d the contention that the review committee has taken into account the punishment awarded to the applicant after he crossed the EB while recommending his case for premature retirement. If the punishments are not taken into account then the CRs for the period from 1.4.93 to 31.3.94 immediately written after he crossed the EB does not, in our opinion, indicate that the review committee's decision is based on the facts on record. Thus, the recommendations of the review committee, in our ^{opinion, may not} be



based on a supporting document to come to the conclusion that the applicant has to be retired prematurely.

22. No doubt the case of the applicant for premature retirement has to be decided on the basis of the service records for the whole career but preferably giving importance to the CRs of the last five years as per para 7 of the OM dated 7.3.86 extracted above and the remarks in the CRs and other supporting documents after he crosses EB or promoted either by selection or non-selection procedure.

23. In the reported case in 1989 (2) AISLJ 229 (Shri Gurbuxrai J. Ahuja v. Union of India and others), the Ahmedabad Bench of the Central Administrative Tribunal held as follows:-

"He has been admittedly allowed to cross the Efficiency Bar. The respondent's plea that this is a merely to be regarded as making him eligible for increment but, not importing a finding regarding his satisfactory service cannot be accepted. Earning of increment is provided for in the scale of pay and the hurdle of the efficiency bar is designed to enable sanctioning authority to apply its mind whether the performance of the government servant is not only satisfactory but sufficiently satisfactory to earn the further increment for this hurdle to be crossed. Allowing him to cross that hurdle is a commendation that the service of the government servants are sufficiently satisfactory and thereafter to review his performance and to state that he is not to be allowed to be continued in the same post in the service is a self

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contradiction which cannot be acceptable."

From the above observations it is evident that "crossing of EB is a vital factor to be considered while ordering compulsory retirement just after this stage". This remark is applicable in the present case also.

24. In the reported case in 1982(1) AISLJ 194 (D.Ramaswami v. State of Tamil Nadu), the question whether "the Government is entitled to take into consideration the entire history including that of prior to his promotion" is answered as follows:-

"In the face of the promotion of the appellant just a few months earlier and nothing even mildly suggestive of ineptitude or inefficiency there after, it is impossible to sustain the order of the Government retiring the appellant from service. The learned counsel for the State of Tamil Nadu argued that the Government was entitled to take into consideration the entire history of the appellant including that part of it which was prior to his promotion. We do not say that the previous history of a Government servant should be completely ignored, once he is promoted. Sometimes, past events may help to assess present conduct. But when there is nothing in the present conduct casting any doubt on the wisdom of the promotion, we see no justification for needless digging into the past."

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From the above it is evident that service record after an employee is promoted or crossed EB is to be seen fully before digging past history. In the present case, as we *have* observed earlier, the CRs written after he crossed the EB does not appear to be adverse so as to prematurely retire the applicant *from service* under the relevant rule.

25. It was held in the reported case in 1989(4) SLR 220 (Baidyanath Mahapatra v. State of Orissa) that "Adverse entries prior to the period of promotion lose their significance and those remain on record as part of past history - Such entries of remote past cannot be looked into for prematurely retiring a person."

26. From the above reported cases, it is evident that authorities should go very slowly after satisfying themselves with the full facts for prematurely retiring an employee when that employee is allowed to cross the EB or promoted by selection or non-selection. In the present case, as stated earlier, the punishments awarded to the applicant numbering about six prior to his crossing the EB did not prevent the committee for considering his case for EB as adverse to stop him from crossing EB. These punishments as well as the entries in the CR were available for the EB committee and they had allowed him to cross the EB. Hence, once again taking note of those entries, is to be treated as a stale consideration and without application of mind. We find from the proceedings of the review committee that there are ^{satisfactory} no remarks which give that Committee a feeling that the applicant was given adverse entries for several occasions for his unsatisfactory

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service which resulted in imposition of punishments. The remark of the review committee, in our opinion, is a very cryptic one and based on that remark, in a judicial review, it cannot be held that the case of the applicant was decided with adequate records and after proper application of mind. Hence it is necessary that the OA has to be allowed and the order of premature retirement ^{has} ~~is~~ to be set aside and the applicant should be allowed to join duty. A direction also ^{has} ~~is~~ to be given to treat him as continued in service from the date of his premature retirement with all consequential benefits.

27. The applicant is ^{aged} ~~is~~ about 54 years old now and he has got another four years to go before his retirement. If rule exists, his case may also be reviewed once again after allowing him to serve for one year in the post in which he is posted on reinstatement and his continuance or otherwise ~~be~~ decided by a fresh reviewing committee.

28. In the case of "Suryakant Govind Oke v. State of Maharashtra; (1995) 30 ATC 137", the Apex Court had held that even if the review was done at the age of 50, it does not debar a review once again at the age of 55 on the basis of new criteria. Hence, a fresh review after passage of one year as stated above, in our view, may not be against any rule. That fresh consideration after one year will indicate whether ^{or not} ~~the~~ applicant is to be retired in public interest.

29. In the result, the following direction ^{is} ~~is~~ given:-

(i) The impugned order Nos.ST/91-93/III dated 30.8.94 of R-3 (Annexure I at page 9 to the OA) and the

order No.ST/91-93/III dated 22.3.95 communicated under the letter No.PF/KGK/II dated 27.3.95 of R-4 (Annexure 2 at page 10 to the OA) are set-aside.

(ii) The applicant should be reinstated into service with effect from the date of his premature retirement with all consequential benefits. Time for compliance is two months from the date of receipt of this judgement.

(iii) The respondents are at liberty to review his case afresh one year after he is put back to duty so as to see whether he can be continued in public interest as per DG(P) letter dated 15.3.78.


30. The OA is ordered accordingly. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

19.3.98

DATED: 19th March, 1998

vsn


(R. RANGARAJAN)
MEMBER (ADMN.)


D.R.

DA.518/95

Copy to:-

1. The Director General, Dept. of Posts, New Delhi.
2. The Chief Postmaster General, Hyderabad.
3. The Director of Postal Services, O/o The Post Master General, Visakhapatnam.
4. The Superintendent, RMS 'V' Division, Visakhapatnam.
5. One copy to Mr. KSR.Anganayulu, Advocate, CAT., Hyd.
6. One copy to Mr. K.Shaskar Rao, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

srr

27/3/98
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(J)

DATED: 19/3/98

ORDER/JUDGMENT

~~M.A./R.A/G.A.NO.~~

in

B.A.NO. 518/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

