

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

16.2.2001

Date of Order : 16.2.2001

Original Application No. 324/1996

G.S.Chauhan aged 57 years, S/o Shri Chanda Singhji, R/o House No. 1083, Beesla Chaddar, Shiv Mandir Chowk, Ajmer.

.....Applicant.

VERSUS

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Chief Mechanical Engineer, Western Railway, Churchgate, Mumbai.
3. Divisional Railway Manager, Western Railway, Ajmer.

.....Respondents.

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Mr. W.Wales, counsel for the applicant.

Mr. Manish Bhandari, counsel for the respondents.

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CORAM :

Honourable Mr. Justice B.S.Raikote, Vice Chairman
Honourable Mr.Gopal Singh, Administrative Member

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ORDER

PER MR.GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant, G.S.Chauhan, has prayed for quashing the impugned order dated 3.7.1995 (Annex.A/1) and direct the respondents to either reinstate the applicant in service or initiate disciplinary action against him for the acts responsible for his compulsory retirement just a year ahead of his attaining the age of superannuation.

Gopal Singh

2. Applicant's case is that he was promoted as Power Controller from October 1986 in the scale of Rs. 2375-3500 and he was subsequently posted as Chief Loco Inspector Scale Rs. 2375-3500, vide order dated 1.7.1994. The applicant was due to retire on 30.9.1996 but he was compulsorily retired w.e.f. 4.7.1995. He was also afforded an opportunity to prefer a representation against the order of compulsory retirement. The applicant made a representation dated 24.7.1995 and the same was rejected vide respondents letter dated 24.1.1996 (Annex.A/4). The contention of the applicant is that his service record was reviewed by the reviewing committee six months prior to the date of his attaining the age of 55 years and the review committee, after reviewing the case of the applicant, did not recommend him for compulsory retirement. It has also been pointed out by the applicant that his compulsory retirement just a year before his attaining the age of superannuation, is nothing but a short-cut method to the disciplinary action, therefore, it has been alleged by the applicant that the impugned order at Annex.A/1 dated 3.7.1995, has not been issued in public interest but as a revengeful attitude adopted by the respondents. It is also alleged by the applicant that the authority who signed the compulsory retirement order, was not a competent authority and, therefore, the impugned order Annex.A/1, is illegal and is liable to be quashed.

3. In the counter, it has been held by the respondents that the applicant was given pre-mature retirement after considering his case only after he attained the age of 55 years, thus, it is not correct on the part of the applicant to say that his case was considered six months before he attained the age of 55 years. The case of the applicant was considered on the basis of the service record and he was not found suitable to be retained in service and accordingly, he was compulsorily retired. It has also been pointed out by the respondents that the order at Annex.A/1 dated 3.7.1995, retiring the applicant compulsorily, was signed by the Divisional Railway Manager, who is the competent authority in the case. It has, therefore, been averred by the respondents that the application filed by the applicant, is devoid of any merit and is liable to be dismissed.

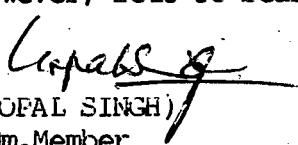
4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. It is contended by the applicant that Annex.A/2 dated 1.7.1994, would reveal that instead of initiating a disciplinary action against

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the applicant, the respondents have resorted to a short cut by way of retiring the applicant compulsorily. Annex.A/2 dated 1.7.1994, is the posting order of the applicant as Chief Loco Inspector and it does not reveal anything relating to the misconduct of the applicant for which, he was required to be proceeded against departmentally. In response to applicant's representation dated 24.7.1995 against the compulsory retirement, various penalties imposed upon the applicant during his service career, were pointed out by the respondents vide their letter dated 24.1.1996 (Annex.A/3) and it was held that on the basis of his service record, he was not found fit to be retained in service. We do not find any material on record which shows that the applicant has indulged in any misconduct at the time of his compulsory retirement, for which he could have been proceeded against departmentally. We also find that the order of compulsory retirement dated 3.7.1995 (Annex.A/1), is not a stigmatic order. Though, the applicant has again reiterated in the rejoinder that the order retiring him compulsorily, was signed by an authority not competent to do so but he has failed to establish or point out as to who is the competent authority and why the authority which passed the impugned order was not competent.

6. In the light of the above discussions, we do not find any merit in this application and the same is hereby dismissed. The parties are, however, left to bear their own cost.


(GOPAL SINGH)
Adm.Member


(JUSTICE E.S.RAIKOTE)
Vice Chairman

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mehta