

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May kindly see
24/1/03

O.A. No. 102/97
T.A. No.

199

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On

DATE OF DECISION _____

Vasudeo Mansukhani _____ Petitioner

Mr. K. L. Thawani _____ Advocate for the Petitioner (s)

Versus

Union of India & Ors. _____ Respondent

Mr. N. C. Goyal _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G. L. Gupta, Vice Chairman

The Hon'ble Mr. A. P. Nagrath, Adm. Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(A. P. Nagrath)
Member (A)

(G. L. Gupta)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 23/1/2003

OA 102/97

Vasudeo Mansukhani, Ex.Sorting Assistant, Railway Mail Service, 'J'Division, Ajmer, r/o 169-B, Ward No.22, Darbar Press, Diggi Chowk, Ajmer.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communications, New Delhi.
2. Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
3. Postmaster General, Rajasthan Southern Region, Ajmer.
4. Director Postal Services, Rajasthan Southern Region, Ajmer.
5. Supdt. of RMS, 'J'Division, Ajmer.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant

... Mr.K.L.Thawani

For the Respondents

... Mr.N.C.Goyal

O R D E R

PER MR.A.P.NAGRATH

The applicant was working on the post of Sorting Assistant in the Postal Department. On completion of 30 years of service, an order under Rule-48 of the CCS (Pension) Rules, 1972 was passed on 11.7.96 (Ann.A/1) retiring him prematurely after giving three months pay and allowances. It is this order which had been challenged in this OA. Subsequently, in pursuance of our directions, his representation against the order dated 11.7.96 was decided vide order dated 16.8.2002. By way of amendment to the OA, the applicant has brought this order also under challenge and has also included additional grounds to contest the action of the respondents. He was allowed by us to take this additional plea.

2. In his averments, the applicant has raised a plea that his service record was not reviewed within the time period as prescribed under the Rules and that Review Committee was also not formed six months in advance as laid down in Ann.II of the Appendix and that Review Committee failed to take notice of the provisions of Rule-3(c) of Part-II of the Appendix.

3. The learned counsel for the applicant, Shri K.L.Thawani, strenuously

through that part of the record and this is what we have found :-

- 1995-96 i) Censured vide memo dated 14.8.95 for not attending office after return from sectional duty and for refusing to perform OTA duty on some days.
- ii) Awarded punishment of withholding of increment for six months vide memo dated 28.11.95 for lapse in his duties. This punishment was reduced to 'Censure' vide memo dated 15.1.96.
- iii) Awarded punishment of withholding of increment for six months vide memo dated 7.3.96 because of his rude behaviour with ASRM, the inquiry officer during interrogation.
- iv) He travelled from Bombay Central by Saurashtra Mail by posing himself as a Vigilance Officer.
- 1994-95 i) Stoppage of one increment for two years for misbehaviour and abusing the superior, vide memo dated 25.7.94.
- ii) Censured vide memo dated 27.9.94 for not completing the work assigned and leaving office before time.
- 1993-94 Censured vide memo dated 27.12.93 for missending of R bag.
- 1992-93 Withholding of increment for a period of three years vide memo dated 13.10.92 by the appellate authority after taking a lenient view. The disciplinary authority had imposed the penalty of bringing him down by five stages in the time scale of pay for a period of three years.

6. From perusal of the proceedings of the review committee, we find that entire service record of the applicant has been unsavoury and he has been warned and punished on various occasions right from the year 1967 onwards. We are constrained to observe that despite such glaring examples of lapse on his part, the applicant through his counsel attempted to take a plea that his service record, specially in the last five years, was without blemish. This is simply a traversery of the truth. A person with this

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HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

For the Applicant

... Mr.K.L.Thawani

For the Respondents

... Mr.N.C.Goyal

O R D E R

PER MR.A.P.NAGRATH

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2. In his averments, the applicant has raised a plea that his service record was not reviewed within the time period as prescribed under the Rules and that Review Committee was also not formed six months in advance as laid down in Ann.II of the Appendix and that Review Committee failed to take notice of the provisions of Rule-3(c) of Part-II of the Appendix.
3. The learned counsel for the applicant, Shri K.L.Thawani, strenuously

argued to say that the proceedings of the Review Committee were vitiated for the reason that the same did not include a Vigilance Officer, which is a necessary condition if the employee is sent on premature retirement on grounds of doubtful integrity. He also submitted that the Review Committee should have taken note of the fact that there was nothing adverse against the applicant in the last five years of his service. His plea was that Rule-3(c) of the Appendix relating to criteria, procedure and guidelines provides that while the entire service record of an officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding five years has been found satisfactory. While referring to the order dated 16.8.2002 (Ann.A/4) he drew our attention to the fact that the applicant had been retired for the reason that he was considered to be a person of doubtful integrity. This Review Committee, which did not comprise of a Vigilance Officer, could not have made an adverse recommendation in respect of integrity of the applicant which ultimately was erroneously acted upon by the appointing authority to retire the applicant prematurely. In respect of composition of committee, the learned counsel referred to the document Ann.R/1, which is a letter dated 3.9.91, wherein the composition of the Review Committee has also been laid down. The learned counsel emphasised that according to this communication in the case of officials where premature retirement would be on account of doubtful integrity, association of appropriate officer dealing with the vigilance cases is necessary. In the instant case, the committee comprised of only Postmaster General & Director Postal Services and there was no Vigilance Officer associated. Thus, the learned counsel contended that recommendation of such an improperly constituted committee could not have been acted upon.

4. The learned counsel for the respondents, Shri N.C.Goyal, while repelling the contentions of the learned counsel for the applicant stated that the applicant had been retired not merely on the ground of doubtful integrity but also as having proved ineffective. He was found inefficient in his duties and in his service record repeated entries have been made of his bad working and improper conduct. He also mentioned that the applicant had been punished on a number of occasions for various acts of omission and commission. The learned counsel also submitted to us CR dossiers of the applicant and the record of the proceedings of the review committee.

5. We have perused the records made available to us and we find that the entire record of the applicant is replete with repeated instances of lapse on his part which very frequently have been of serious nature. Since it was strongly argued on his behalf that in the last five years his service record was without blemish, we have taken particular care to go

through that part of the record and this is what we have found :-

- 1995-96 i) Censured vide memo dated 14.8.95 for not attending office after return from sectional duty and for refusing to perform OTA duty on some days.
- ii) Awarded punishment of withholding of increment for six months vide memo dated 28.11.95 for lapse in his dutis. This punishment was reduced to 'Censure' vide memo dated 15.1.96.
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6. From perusal of the proceedings of the review committee, we find that entire service record of the applicant has been unsavoury and he has been warned and punished on various occasions right from the year 1967 onwards. We are constrained to observe that despite such glaring examples of lapse on his part, the applicant through his counsel attempted to take a plea that his service record, specially in the last five years, was without blemish. This is simply a traversery of the truth. A person with this

kind of record of service, as we have observed, is certainly ~~not~~ fit to be retained in service and that is what the review committee has found. There is no infirmity in the entire proceedings and the action of the appropriate authority in retiring the applicant prematurely.

7. Hon'ble the Supreme Court have commended with approval the action taken in many cases where the employees have been sent on premature retirement. It has been observed by the Apex Court that the provisions under the relevant rules regarding premature retirement contribute towards maintenance of the highest efficiency in administration, obviously desirable in the public interest. While interpreting the scope of the provisions of Rule-16(3) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, which is analogous to Rule-48 of the CCS (Pension) Rules, the Supreme Court observed in the case of Union of India v. M.E.Reddy & Anr., AIR 1980 SC 563, :-

- "i) The object of the Rule is to weed out the dead wood in order to maintain a high standard of efficiency and initiative in the State Services. It is not necessary that a good officer may continue to be efficient for all time to come. It may be that there may be some officers who may possess a better administrative and higher standard of efficiency and if given chance the work of the Government might show marked improvement. In such a case compulsory retirement of an officer who fulfils the conditions of Rule 16(3) is undoubtedly in public interest and is not passed by way of punishment.
- ii) Compulsory retirement contemplated by the aforesaid rule is designed to infuse the administration with initiative.....so as to meet the expanding needs of the nation which require exploration of 'fields and pastures anew'. Such a retirement involves no strain or stigma nor does it entail any penalty or civil consequences. In fact, the rule merely seeks to strike a just balance between the termination of the completed career of a retired employee and maintenance of top efficiency in the diverse activities of administration."

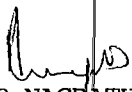
In the case of Union of India v. Cop.J.N.Sinha & Anr., 1971 (1) SCR 791, the Supreme Court observed;

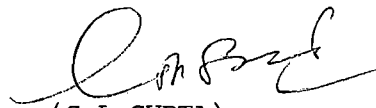
"In some cases, the Government may feel that a particular post may be more usefully held in public interest by an officer more competent than the one who is holding. It may be that the officer who is holding the post is not inefficient but he appropriate authority may prefer to have a more efficient officer. It may further be that in certain key posts public interest may require that a person of undoubted ability and integrity should be there. There is no denying the fact that in all organizations and more so in Government organizations, there is good deal of dead wood."

8. The plea raised by the applicant that the review committee constituted is of no help to him. It is not his case that he has been

retired prematurely only because of the reasons of doubtful integrity. In fact, it is a typical case of totally indifferent and inefficient worker, who has also not been careful about his behaviour and conduct. Absence of a Vigilance Officer from the review committee could not have caused any prejudice to the case of the applicant. His case has been correctly reviewed by the review committee and there is no ground for any interference.

9. This OA is totally devoid of merits and is dismissed. No costs.


(A.P.NAGRATH)
MEMBER (A)


(G.L.GUPTA)
VICE CHAIRMAN