

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR  
Original Application No. 388 of 2004

Indore, this the 26<sup>th</sup> day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Gyan Chand Attma, aged 51 years,  
S/o Late Shri Govind Prasad Attma  
Ex.Turner H.S.I Technical Training  
Section, G.C.F. Jabalpur(M.P.)

Applicant

(By Advocate – Shri R.N.Roy)

**V E R S U S**

1. Union of India  
Through the Secretary Ministry of  
Defence Production,  
New Delhi.
2. The Chairman/Director General  
Ordnance Factories Board,  
Kolkatta(W.B.)
3. The Senior General Manager,  
G.C.F. Jabalpur.
4. Shri A.K. Singh, S/o Not known  
Works Manager, V.V. G.C.F.  
Jabalpur(M.P.)

Respondents

(By Advocate – Shri K.N.Pethia)

**O R D E R**

**By M.P. Singh, Vice Chairman –**

By filing this Original Application, the applicant has sought the following main relief :-

- “(i) To quash the impugned order dated 3.11.2003 Annexure A-13 and order dated 6.2.2003 Annexure A-16 issued by the Senior General Manager, G.C.F., Jabalpur.
- “(ii) To direct the respondents that the period from 7.2.03 till the joining of the service of the applicant be treated to be spent on duty and make payment of the salary with all consequential benefits.”

2. The brief facts of the case are that the applicant was initially appointed and joined as Turner 'C' in Gun Carriage Factory, Jabalpur on 7.4.1972. In due course of time he was promoted as Turner Highly Skilled Grade-I. He had also passed the departmental examination for Chargeman Grade-II but promotion to the said post of Chargeman could not be effected due to his premature retirement on 3.11.2002. The applicant has contended that he had met with an accident in August, 1993 and subsequently on 20.4.1998 and he was referred to Military Hospital. In the meantime the applicant was transferred to Tank Shop where no light work was available for him. He made a representation on 10.10.1998. He again made a representation to the General Manager enclosing reports and opinions of doctors dated 6.11.1998 and 11.10.2001 wherein he was allowed to perform light duties. The applicant has alleged that as per the recommendation of respondent no.4, he was referred to Military Hospital for treating him unfit for duty and to remove <sup>him</sup> from service and when the respondents 4 & 3 have not succeeded to remove the applicant, they had decided to <sup>prematurely</sup> retire him from service. Therefore, a notice for premature retirement under Rule 48 of the Central Civil Services (Pension) Rules, 1972 was issued to the applicant on 3.11.2002. Hence this Original Application.

3. The respondents in their reply have stated that ever since his appointment the applicant's performance was not upto the desired level which is expected from a sincere Government servant. The applicant was imposed with various penalties for different types of misconduct committed by him during his service as detailed in para 1 of the counter reply filed by the respondents. He was penalized on two different occasions for his poor workmanship resulting in damage to the raw materials. In spite of the above penalization, the applicant did not show any improvement. In addition to above, the applicant started running a private Homeopathic clinic and started issuing



medical certificates to the employees and thus started indulging in illegal business also. The applicant prior to his premature retirement was put in the production shop meant for manufacture of guns for the Army. Therein also he did not perform his assigned duties and started evading the work. Then he requested for a light duty on account of illness. Therefore, he was referred to Medical Hospital for a medical board out. However, the Military Hospital authorities on examining the case of the applicant found him fully fit for the duties and refused to medically board him out. The respondents considering the fact that the applicant was fully fit as certified by the Military Hospital authorities, asked the applicant to perform his job and ordered him to do the assigned duties. In spite of above, the applicant miserably failed to perform his allotted work and was unable to earn his piecework. The respondents considering the miserable performance of the applicant decided to invoke the provisions of Rule 48 ibid which stipulates that an individual who is a deadwood and he is not contributing meaningfully to the govt. and who has also completed 30 years of qualifying service, after a review along with other similarly placed individuals can be prematurely retired. Accordingly, a review committee examined the case of the applicant and short listed him for ineffectiveness as well as poor performance and on account of his entire bad service record showing no improvement. Accordingly, the applicant was served with a notice for premature retirement under Rule 48 ibid. Against the said notice the applicant submitted a representation. The said representation was examined by the Committee constituted under the Ordnance Factory Board. On examination of the representation of the applicant, the committee found that the applicant has neither brought out any new fact or new aspect of a fact already known which was not taken into account at the time of issue of notice of premature retirement. Thus, it rejected the representation of the applicant. The respondents have also relied on the decision of the Hon'ble Supreme Court in the case of J.D. Shrivastava Vs. State of M.P., (1984)2 SCC 8 wherein it has been

held that whenever the service of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest. In this context they have also relied on the decisions of the Hon'ble Supreme Court in the cases of State of Orissa Vs. Ram Chandra Das, (1996)5 SCC 331 and State of Punjab Vs. Gurdas Singh, 1998 (4) SCC 92; In view of the aforesaid facts and the various decision of the Hon'ble Supreme, the respondents have stated that there is no merit in this Original Application and the same is liable to be dismissed.

4. We have heard the learned counsel of both the parties and we find that the applicant has been penalized on 11 different occasions for various misconducts committed by him. He had misused the LTC and was involved in conducting private business. The respondents have also stated that because of his poor workmanship resulted in repeated damage and spoiling of costly raw materials meant for the guns production and causing loss to the Government. He was evading the Government duties because of his sickness, however, when he was referred to the Military Hospital, the doctors have certified him fully fit for performing duties. He had failed to perform his allotted duties. Therefore, the respondents had decided to invoke the provisions of Rule 48 ibid and accordingly his case was referred to the Review Committee which shortlisted his name because of his poor performance. Accordingly, the impugned notice of premature retirement was issued. The applicant had represented against the same, which has been duly considered and rejected by the Committee constituted by the Ordnance Factory Board. Accordingly, the applicant has been retired prematurely w.e.f. the forenoon of 7.2.2003 as mentioned in Annexure-A-16. Thus, the respondents have followed the procedure laid down under the rules. The power to retire a Government servant who is declared as a dead wood, has been upheld by the Hon'ble Supreme Court in <sup>ac</sup>catena of decisions. The applicant has also failed to show us any irregularities committed by the

respondents while following the procedure before issuing the notice of premature retirement. In this view of the matter, we do not find any merit in this Original Application and the same is liable to be dismissed.

5. In the result, the O.A. is dismissed, however, without any order as to costs.

Sadhana Srivastava  
(Ms. Sadhana Srivastava)  
Judicial Member

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

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on 6-5-05  
BB