

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 659 of 2004

Indore this the 18th day of Oct 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

M.P. Verma, Aged about 56 years,
S/o. Chandrabhan Verma, Occupation-
Postal Assistant, Lahar Sub Office,
District Bhind (MP). Applicant

(By Advocate – Shri Raja Sharma)

V e r s u s

1. Union of India, through Secretary,
Department of Posts & Telegraphs,
North Block, New Delhi.
2. Director, Postal Services,
Indore Region, Indore (MP).
3. Supdt. of Post Offices, Chambal
Division, Morena (MP). Respondents

(By Advocate – Shri V.K. Sharma)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“ii. to issue a writ in the nature of certiorari, quashing the impugned order No. S.Pri/Kon/Review dt. 28.7.2003 (Ann-A-2) passed by the respondent No. 3 as also Order No. 135-9/2003-SPB-II dt. 29.3.2004 passed by the respondent No. 1,

iii. to direct the respondents to permit the applicant to remain in service till he attains the age of 60 years like any other Postal Assistants.”



2. The brief facts of the case are that the applicant was posted as Postal Assistant with effect from 1.1.1971. In the year 1983 a crime No. 194/1983 was registered against one U.S. Paparao, Assistant Post Master and the applicant, under Section 420, 467, 468, 471 & 120-B of IPC and the applicant was placed under suspension. The aforesaid crime No. 194/1983 was registered at P.S. Jawra, District Morena. After completion of 16 years continuous service the applicant became entitled for consideration under time bound promotion scheme in the year 1987. The matter was referred to the DPC which met on 15.5.1987. The DPC was pleased to recommend promotion to the applicant to the next higher scale giving benefit of time bound promotion scheme. He was also given the benefit of FR 22(o) with effect from the date of joining the new assignment. Since he did not bow before the arbitrary whims of certain officers, they kept an evil eye over the applicant's service career and taking advantage of the situation, the disgruntled officers sent the service particulars of the applicant with irrelevant papers making false allegations against him, making out a case against him that he was unfit to retain in service after attaining the age of 55 years. As a result of the aforesaid manipulations the applicant was intimated by order dated 28.7.2003 that he has been compulsory retired having attained the age of 55 years, under Clause J(II) of Rule 56 of the Fundamental Rules in public interest. Feeling aggrieved by the aforesaid order the applicant submitted a detailed representation to the respondent No. 2 and also filed OA No. 742/2003. The Tribunal disposed of the petition finally vide order dated 11.11.2003, thereby directing the respondents to decide the appeal preferred by the applicant on 4.8.2003. The appeal of the applicant was rejected by the respondents vide order dated 29.3.2004 (Annexure A-6). Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.



4. It is argued on behalf of the applicant that the criminal case has yet not been decided even after 23 years. He served in the respondents' institution with utmost sincerity. His performance was excellent during his whole service period but as he did not bow before the arbitrary whims of certain officers, they kept an evil eye over the applicant's service career and taking advantage of the situation, wreaked their vengeance. They reported the matter for his compulsory retirement with irrelevant papers and making false allegation against the applicant. The applicant submitted representation which was not heard and thereafter he filed an OA No. 742/2003 and in compliance of the direction of the Tribunal he submitted the appeal to the respondent No. 2 (Annexure A-5) but it was dismissed vide order dated 29.3.2004 (Annexure A-6). The whole action of the respondents is against the law and procedure.

5. In reply the learned counsel for the respondents has argued that the order of compulsory retirement is not an order of punishment. It has to be passed on the subjective satisfaction of the Government. The contentions of the applicant with regard to making false allegations by the respondents are baseless and false and are not supported by any document. The respondents have considered all the facts, circumstances and service records of the applicant and also duly considered his representation which was filed in compliance of the order of the Tribunal and have passed the impugned order dated 29.3.2004 (Annexure A-6). Hence, the Original Application is liable to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the argument advanced on behalf of the respondents that the allegation made by the applicant against the officers of the respondents who are responsible for his compulsory retirement by placing irrelevant papers and false allegations against him is baseless and is not supported by any document is not controverted by the applicant by filing any rejoinder. Thus the aforesaid



argument seems to be correct. Merely alleging anything adverse against any person is not a sufficient ground of malafide, as the applicant could not show any such reason on what basis he had made the allegations against the respondents' officers. We have perused Annexure A-6 dated 29th March, 2004 in which it is clearly mentioned that the applicant had completed 55 years of age on 5.3.2003. His case was submitted to a review committee consisting of the Post Master General, Indore Region as Chairman and Director of Postal Services, Indore Region as member for considering his further retention in service alongwith the cases of other officials. The Review Committee, after going through the record of entire service of the applicant did not recommend his retention in service. Therefore, the Superintendent of Post Offices, Chambal Division, Morena who is the appointing authority of the applicant has served a notice on the applicant vide memo dated 28.7.2003 under FR-56(j) retiring him from service on the day following the date of expiry of three months computed from the date following the date of service of that notice on him. The applicant submitted his representation against the notice of premature retirement. The points raised by him were considered by the Representation Committee of the respondents on the basis of the service records, the Representation Committee of the Department observed that the CRs of the applicant were uniformly unsatisfactory even though some of the adverse entries have not been communicated to him. The record of the applicant not remained clear as he was awarded six penalties. Among others, he was found to have shortage in his stamp imprest when he worked as Postal Assistant at Ambah twice. Recovery of Rs. 100/- was also ordered in 1976-77. He was placed under suspension for being involved in NSC Commission fraud case and faced a Rule-14 inquiry. His pay was also reduced by one stage for one year and Rs. 4280/- was ordered to be recovered from his pay for irregular payment to NSC agents. Another recovery of Rs. 650/- was ordered in the year 1989-90. He also remained in judicial custody for more than 48 hours in the fraud case mentioned above. His integrity also cannot be said to be beyond

doubt. Taking all these aspects into account, the aforesaid order dated 29th March, 2004 (Annexure A-6) has been passed. This order seems to be a detailed and reasoned order. The respondents are authorised to take action under Fundamental Rule 56-J. We also find that the respondents have considered the service records of the applicant and after thorough consideration by the Committee consisting of the higher authorities, have taken the aforesaid decision.

7. Considering all the facts and circumstances of the case, we are of the considered view that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA" पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि आये गित:-

- (1) सचिव, उत्तर अंचलपालिका कार्यालय, जबलपुर
- (2) आवेदन प्रो/प्रमाण/दस्तावेज के काउंटर
- (3) प्रत्यक्षी प्रो/प्रमाण/दस्तावेज के काउंटर
- (4) बंधुपाल, को.प्र.अ., जबलपुर न्याय मंडल
सूचना एवं आवश्यक कार्यवाही हेतु

Raja Sharma B.N. Aul
V.K. Sharma B.N. Aul

26/7/05 उष रजिस्ट्रार

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