

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO. 511/2002

Shri. Surajsingh s/o Kanchansingh Thakur
Aged 53 years, Occupation : Police Constable
R/o : Dore Layout, Plot No. 3,
Mankapur, Chhindwada Road,
Nagpur.

Applicant

- **Versus** -

- (1) The State of Maharashtra
Through its Secretary,
Home Department,
Mantralaya, Mumbai -32.
- (2) Secretary, Home Department,
Mantralaya, Mumbai.
- (3) Commissioner of Police,
Nagpur Division,
Nagpur.
- (4) Joint (Assistant) Commissioner of Police,
Nagpur.

Respondents

Shri V. P. Daware, Advocate for the applicant (absent)
Shri S. C. Deshmukh, P.O. for the respondents

Coram : - The Hon'ble Shri Justice A. P. Deshpande,
Vice Chairman and
Shri. B. Majumdar,
Member(A)

Dated :- January 14, 2013.

ORDER**Per : Member(A)**

The applicant, a Police Constable has filed the O.A. challenging an order compulsorily retiring him on completion of thirty years of service. The applicant and his counsel were absent on 2-1-2013 and the matter was adjourned by a day as an identical matter was also listed for that day. The applicant or his learned counsel was absent again on the next day i.e. on 3-1-2013 when the matter was partly heard with the help of Shri. S. C. Deshmukh, learned P.O. The Tribunal was constrained to reluctantly adjourned the matter and it was also made clear that if the counsel of the applicant remained absent on the next day, the O.A. would be decided on merit with the assistance of the learned P.O.

2. The applicant was again absent on 14-1-2013 and hence the matter was heard and finally decided on merit with the assistance of the learned P.O. and documents placed on record.

3. The applicant was appointed in 1970 and on 5-5-2001, a notice under Rule 65 sub rule (1)(b) of the Maharashtra Civil Services (Pension) Rules, 1982 was issued compulsorily retiring him from service with effect from 5-8-2001, that is, on completion of 30 years of service. The applicant submitted a representation against the said notice which came to be rejected and on 6-3-2002,

the impugned order compulsorily retiring him from service with effect from 6-3-2002 was issued. It is this order, which is challenged in the O.A. The applicant has pleaded that as per provisions of Rule 10 sub-rule (4)(b) of the Pension Rules, a government servant belonging to Class III can be retired in public interest on reaching the age of 55 years. However, when the impugned order came to be issued, his age was 50 years. Records of his entire period of service were not considered objectively while retiring him and the decision to retire him was based on extraneous considerations.

4. The respondent no. 3 i.e. the Commissioner of Police, Nagpur, in his reply to the O.A. submits that the applicant was saddled with 79 punishments during his service tenure. The order of retiring him was passed by considering records of his total period of service and the recommendations of the Special Review Committee. Hence his representation against the impugned order of retirement was also rejected.

5. After going through the records made available to us and after hearing the arguments of the learned P.O., we find from the statement submitted by respondent no. 3 (Annexure-X) that the Review Committee took into consideration the applicant's annual confidential records for his entire service period : from 1971 to 2000. The Committee observed that the

applicant, while discharging his duties, does not appear to have served the Government satisfactorily, he has a habit of frequent absenteeism, out of 79 punishments inflicted on him during his service, 18 were during the preceding five years, although he has received 37 awards, it does not appear that he had served with honesty and integrity and physically he seems to ^{be} obese and indolent. Hence after considering his entire service, the Committee recommended that he should be retired from service, in public interest.

6. The applicant's case is very similar to that of Shri. Murlidhar Shripatrao Ghungrud, Police Naik, who had filed O.A. 368/2002 challenging the order of his compulsory retirement, which was decided today. In the case of Shri. Ghungrud, the Tribunal, relying on *Baikuntha Nath Das Vs. Chief District Medical Officer, Baripada and Another (1992-I-LLJ-784)*, which elaborately lays down the principles to be applied in the matter of premature retirement held that the Review Committee, after considering the entire service record of the applicant and taking into consideration all objective data with regard to the applicant's service career found that the premature retirement of the applicant would be in public interest, and the competent authority acting on the report of the

Review Committee had rightly compulsorily retired the applicant under Rule 65(1)(b) of the Pension Rules. Hence for the reasons as recorded in the above O.A., the present O.A. stands dismissed with no orders as to cost.

sd/-

(B. Majumdar)
Member(A)

sd/-

(Justice A. P. Deshpande)
Vice Chairman

ayw/-