

Central Administrative Tribunal
Principal Bench

OA No.2854/2002

New Delhi this the 11th day of September, 2003

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Chokhey Ram S/o Shri Dhani Ram,
Resident of 23C, DDA, L.I.G. Flats,
Motia Khan, Paharganj,
New Delhi-110 055

-Applicant

(By Advocate: Shri K.K. Puri)

Versus

Union of India, through

1. The Secretary,
Department of Animal Husbandry & Dairying,
Ministry of Agriculture, Krishi Bhawan,
New Delhi.
2. The General Manager,
Delhi Milk Scheme,
Govt. of India,
West Patel Nagar,
New Delhi-110 008.

-Respondents

(By Advocate: Shri K.C.D. Gangwani)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

Applicant has challenged his retirement w.e.f. 15.3.2001 in exercise of powers conferred by Rule 56 of the Fundamental Rules and Rule 48 of the Central Civil Services (Pension) Rules, 1972 on attaining the age of 55 years. Learned counsel of the applicant stated that respondents have ordered applicant's premature retirement arbitrarily as they have not adhered to the time schedule laid down in the instructions of Govt. of India. While he had attained 55 years of age in August 1997, orders of his retirement were passed in March 2001. He also maintained that services of the applicant were

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satisfactory as the applicant was granted two financial upgradations vide order dated 14.5.2001 under the Assured Career Progression (ACP) Scheme. Such upgradations are granted only when records are scrutinised by a screening committee and on application of norms for normal promotion, services of Group 'C' employees are found to be satisfactory. When respondents have granted two financial upgradations to the applicant under ACP Scheme, there was no ground available to respondents to retire the applicant prematurely. Learned counsel also relied on order dated 21.7.2003 in OA-1908/2002 **Om Narain Vs. Union of India** where in a similar case, orders of retiring the applicant therein in public interest were quashed and set aside with all consequential benefits.

2. Learned counsel of the respondents stated that a Group 'C' officer after he attains the age of 55 years can be pre-maturely retired in time in public interest under FR-56/Rule-48 of CCS (Pension) Rules. Learned counsel stated that the financial upgradations under the ACP Scheme were granted to the applicant after he had already been retired, of course, with retrospective effect.

3. The ACP Scheme was introduced vide office Memorandum dated 9.8.99. Condition-6 under ACP Scheme envisages that normal promotion norms have to be considered for granting financial upgradations under this Scheme in respect of Group 'C' employees. Applicant was a Group 'C' employee and had been

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granted two financial upgradations under the ACP Scheme vide Annexure A-5 dated 14.5.2001. When the screening committee for ACP Scheme adopts the normal norms of promotion for considering grant of financial upgradations under ACP Scheme and applicant was granted two financial upgradations vide order dated 14.5.2001, it is beyond comprehension how the respondents could have ordered premature retirement of the applicant on the basis of the some records which rewarded the applicant with financial upgradations. Obviously, respondents have mentioned the expression public interest by way of formality and not based on any facts. Respondents cannot be allowed to adopt contradictory stand on the basis of the same records at two different points of time which are not greatly distanced to issue orders of financial upgradations and those of premature retirement. The logic and conclusions of the case of **Om narain** (supra) are squarely applicable to the present case. Orders of premature retirement of the applicant are quashed and set aside with all consequential benefits.

4. The OA is allowed in above terms. No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Member (A)

cc.