

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 946/2002

New Delhi this the 18th day of March, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

A.V. Balchandran,
Senior AME, B.S.F.,
Air Wing, Palam.

...Applicant

(By Advocate Mrs. Prasanthi Prasad)

VERSUS

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
New Delhi.

2. Directorate General,
Border Security Force,
Block No., 10 5th Floor
CGO Complex, Lodhi Road,
New Delhi-3

3. Deputy Inspector General,
(Personnel)
Dte. of Border Security Force,
Block No.10, 5th Floor,
CGO Complex, Lodhi Road,
New Delhi.

...Respondents

(By Advocate Shri B.K. Barera)

O R D E R (ORAL)

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

Applicant is serving as a Senior AME with the Air Wing of the Border Security Force. He had retired from Indian Air Force in the rank of J.W.O. in the year 1998. He worked with the Directorate General of Security (Cabinet Secretariat) Aviation Research Centre, Palam from 15.8.88 to 15.3.1994 as JTO II (Eng.). Vide Annexure A-1 dated 24.2.1994, he was re-employed as Junior Air Craft Maintenance Engineer in the Border Security Force Air Wing upto the age of 58 years i.e., upto 15.7.2003 from the

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date of his joining duty". As per Annexure A-2, he assumed charge of the said post on 16.3.1994. It has been claimed by the applicant that he was re-employed in the civilian cadre on non-combatised post of Junior AME and was not granted any benefits accruing to the combatised posts. Respondents have decided to retire the applicant from BSF w.e.f. 15.7.2002 on attaining the age of 57 years instead of 58 years by Annexure A-5. The applicant has sought quashing of Annexure A-5 and direction to respondents to continue with the services of the applicant as civilian employee till the age of superannuation of the civilian employees. The applicant has also stated that he is not holding a combatised post.

2. As regards the last prayer vide order dated 27.1.2003 in which one of us (Hon'ble Shri V.K. Majotra, M(A)) was also a member, the Tribunal has held on the basis of reasons discussed in that order that applicant was not appointed against a combatised post. As such the only prayer remaining for adjudication is whether the order dated 10.8.2001 has to be quashed and direction issued to the respondents to continue the services of the applicant as civilian employee till the age of superannuation of civilian employees. Learned counsel of the applicant has stated that she is not pressing any other reliefs at this stage.

3. The learned counsel of the applicant stated that in view of the order dated 24.2.1994 (Annexure A-1) while the applicant was re-employed as Junior AME in the Border

Security Force upto the age of 58 years i.e., upto 15.7.2003, now that the Court has already held vide order dated 27.1.2003 that the applicant was appointed against non combatised post, his services ^{have to} continue as civilian employee till the age of superannuation of civilian employees as per law. This order of the Tribunal has not been challenged by the respondents. As such it has already been held that the applicant is not holding a combatised post; the applicant is entitled to consequential benefits, including the retirement age of superannuation as prescribed for civilian employees. Consequently, the respondents are directed to continue the services of the applicant as a civilian employee till the age of superannuation of civilian employees.

4. O.A. is disposed of in the aforesated terms.
No costs.

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

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Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)