

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 3288/2001

This the 31st day of May,, 2002

HON'BLE SH. SHANKER RAJU, MEMBER (J)

Shri Tule Ram,
S/o Shri Mohar Singh,
R/o House No. 39,
Village & P.O. Alipur,
Ambedkar Colony,
Delhi-110036.

...Applicant

(By Advocate Ms. Ritu Jain proxy
counsel for Shri Ashok Agarwal)

Versus

1. The Government of National Capital Territory of Delhi,
Through Secretariat,
Player's Building,
Behind I.G. Stadium,
New Delhi.
2. Through Secretary,
Office of Conservator of Forest
Kamla Nehru Ridge,
Delhi-110007.

...Respondents

(By Advocate Ms. Jasmine Ahmed)

O R D E R (ORAL)

By Sh. Shanker Raju, Member (J)

Heard the parties.

2. Applicant impugns inaction on part of the respondents withholding retiral benefits consequent upon his retirement on 30.4.2000 who was in the employment of the respondents as daily rated labourer since 1965 in the office of Conservator of Forest. On account of suffering from Tuberculosis applicant was terminated and was re-instated. On filing OA-437/93 vide which directions have been issued to the respondents to constitute a Medical Board to examine the applicant and till then he was allowed to be retained in service.

3. Medical Board declared the applicant fit on 27.5.97. Thereafter he has been regularly appointed on 23.7.97. Applicant in the attestation form has filled up his date of birth as 1942 and thereupon in the medical examination after the Medical Surgeon has determined the age of applicant as 57 respondents by a communication dated 13.9.99 sought information from the applicant about his date of birth. He responded to this and thereafter by all order dated 3.12.99 respondents have treated the date of birth of the applicant as 1.5.40. Learned counsel stated that without any justified reasons the retiral benefits of the applicant have been withheld which entails interest as a legal right.

4. Respondents on the other hand in their reply contended that as the applicant was employed as casual labourer in Development Department since 1.10.70 and as there is no reference by the Court earlier as to ascertainment of date of birth by the Medical Board, the applicant without any justified reason declared his date of birth as 1942 in the attestation form. He suppressed the fact that he had earlier declared his date of birth as 1.1.37 and has not disclosed in the attestation form and by that time he has already crossed over the date of superannuation.

5. It is also stated that as the applicant has been inadvertantly regularised beyond the date of superannuation as such he is not entitled for pension. Further placing reliance on a letter addressed to the Conservator of Forest by the Pay and Accounts Officer it is stated that objections have been put in view of FR 56 that change of date of birth at the fag end of retirement is not permissible accordingly, the pensionary benefits of the applicant are not released. It is

contended that had the aforesated facts being disclosed to the applicant he would have raised his grievance pertaining to pensionary benefits in an effective manner.

6. In my considered view, rightly or wrongly, once the Medical Surgeon has determined the age of applicant as 57 years and the same has been accepted by the respondents and in pursuance thereof notice for treating the date of birth as 1.5.40 for giving pensionary benefits to the applicant was issued, Respondents were obligated to give reasons for not giving pension to the applicant. In this manner he may get an opportunity to assail the grievance in a proper form and in an effective manner. As in the present OA the limited grievance is of releasing of pensionary benefits. Applicant should be granted an opportunity to assail the grievance relating to his date of birth.

7. In this view of the matter having regard to the reasons recorded above and in the interest of justice it would be proper to direct the respondents to dispose of the applicant's representation ^{by} a detailed & speaking order to be communicated to the applicant ^{almqwim} reasons for depriving him of all his pensionary benefits within one month from the date of receipt of a copy of this order. Thereafter the applicant shall be at liberty to assail his grievance in accordance with law. OA is disposed of. No costs.

S. Raju

(SHANKER RAJU)
Member (J)

'sd'