

Central Administrative Tribunal, Principal Bench

Original Application No. 1150 of 1998

New Delhi, this the 28<sup>th</sup> day of January, 2000

Hon'ble Mr. R.K. Ahooja, Member (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Bhim Singh  
S/o Shri Jaisi Ram  
R/o Village & P.O. Dehkora,  
District Jhajjar.

- Applicant

(By Advocate: Shri B.S. Charya)

Versus

1. Delhi Fire Service,  
Government of National Capital Territory of  
Delhi,  
Headquarters Connaught Circus,  
New Delhi,

2. Government of National Capital Territory  
of Delhi,  
5, Sham Nath Marg,  
Delhi through its Chief Secretary.

3. The Secretary (Services),  
Government of National Capital Territory of  
Delhi,  
5, Sham Nath Marg,  
Delhi.

- Respondents

(By Advocate - Shri Rajinder Pandita)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicant, Shri Bhim Singh in this case is  
assailing the order of retirement dated 25.1.1996 vide  
which he was superannuated on attaining the age of 58  
years. The claim of the applicant is that he has been  
prematurely retired as in terms of FR 56(a) whereas he  
should have been retired at the age of 60 years.

2. It is also stated that the other incumbents, as  
Drivers, were superannuated at the age of 60 years.

3. It is further stated that in case of Ram Pher

km

Singh, Driver No.39, this Tribunal has held that the Driver could not be superannuated before attaining the age of 60 years, so it is stated that the applicant is also to be treated alike.

(3)

4. It is also stated that the respondents had undertaken to deal with the case of the applicant in accordance with the decision to be rendered by the Tribunal in the case of Ram Pher Singh.

5. The OA is being contested by the respondents and they have stated that the application is barred by Sections 19, 20 and 21 of the Administrative Tribunal's Act, 1985. The respondents have taken a plea that the applicant is a Government servant of National Capital Territory of Delhi and as such he has been retired at the age of 58 years in pursuance of the provisions of FR 56(a) and as regards his claim that he should have been retired at the age of 60 years in pursuance of FR 56(b), is not sustainable inasmuch as the applicant is neither a workman nor an artisan employed at the monthly rate of pay in an industrial or work-charged establishment, but is a Government servant.

6. We have heard the learned counsel for the parties and have gone through the records.

7. The learned counsel for the applicant has pleaded that the Driver is construed as artisan and the case of the applicant falls within the purview of FR 56(b)

*km*

and, therefore, the impugned order of retirement is liable to be set aside.

(A)

8. In reply to this Shri Rajinder Pandita, Counsel for National Capital Territory of Delhi referred to a judgment reported in 1991(1) Volume I page 68 of All India Service Law Journal entitled as "State of Orissa and Others Vs. Sadhu Charan Pradhan" wherein the Hon'ble Supreme Court has observed as follows:-

"Orissa Service Rules, Rule 71(a), Artisan, Retirement age-CAT allowed the mason to continue upto 60 years treating him as a workman in industry - Note to the rule clearly lays that artisans in Govt. establishment were not eligible for enhanced age - Relying on A. Mohanty's case held that appeal has to be allowed".

9. We have also gone through the judgment though the case before the Supreme Court was of an employee of State Government of Orissa but the provision governing the State Government employees and the provisions of FR 56(a) are at pari passu particularly the note to FR 56(b) was similarly worded in the Orissa Rules also. Besides that, the Hon'ble Supreme Court had observed that after considering the relevant rules, it came to the conclusion that an artisan in the circumstances, being a Government employee, would retire on his completion of 58 years of age.

10. In this case also admittedly, the applicant was employed in Delhi Fire Service under the Government of NCT, Delhi and was not working in any industrial or work-charged establishment, so he cannot be given the

km

✓5

benefit of FR 56(b) and he had to superannuate like any other Government servant under FR 56(a), i.e., at the age of 58 years. So we are of the considered opinion that the case of the applicant is squarely hit by the recent decision of the Hon'ble Supreme Court in the case of State of Orissa and Others Vs. Sadhu Charan Pradhan and the judgment relied upon by the applicant in the case of Ram Pher Singh (OA 463/97) stands overruled by the decision of the Supreme Court in the case of Sadhu Charan Pradhan (Supra) and, therefore, the OA has no merits.

II. In view of the above, the OA is dismissed but without any order as to costs.

Kuldeep  
( Kuldip Singh )  
Member (J)

Rakesh  
(R.K. Ahooja )  
Member (A)

/Rakesh