

(2A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 470/98

New Delhi: this the 27<sup>th</sup> day of September, 2000.

HON'BLE MR. S.R. ADIGE VICE, CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

D. N. Dwivedi,  
S/o Shri B. N. Dwivedi,  
R/o 86, Naya Bazar,  
Near Durga Mandir,  
Najafgarh,,  
New Delhi-43

.....Applicant.

(By Advocate: <sup>Shri</sup> S.K. Bisaria)

Versus

1. Lt. Governor,  
through  
Chief Secretary,  
Govt. of NCT of Delhi,  
5, Sham Nath Marg,  
Delhi.

2. Director of Education,  
Govt. of NCT of Delhi,  
Old Secretariat,  
Delhi.

.....Respondents.

(By Advocate: Shri Rajinder Pandita).

ORDER

Mr. S.R. Adige, VC (A):

Applicant impugns respondents' order dated 15.1.96 (Annexure-1) declaring that he shall stand retired upon superannuation w.e.f. 31.7.98, his date of birth being 10.7.40. He seeks a declaration that he shall superannuate as Guidance Officer at the age of 60 years and furthermore that he be promoted/appointed as Guardian Officer w.e.f. 2.9.98 instead of 12.11.97 with all consequential benefits.

2. As per applicant's own averments in the OA, he was initially appointed as "Educational Vocational Guidance Counsellor" on 7.2.68, and by order dated 1.8.82 (Annexure-3), he was appointed as Counsellor-in-

✓

25

charge on regular basis. By order dated 2.9.88 (Ann-2) he was ordered to look after the work of Guidance Officer, EVG Bureau, SIE in addition to his own duties without any extra remuneration with immediate effect till further orders. Eventually he was appointed to the post of Guidance Officer on purely adhoc and emergent basis by order dated 12.11.97 (Annexure-1A) for a period of 6 months or till such time a regular appointment was made by UPSC whichever was earlier.

3. In so far as applicant's claim that he shall retire on superannuation at 60 years of age and not 58 years is concerned, respondents in their reply state that consequent to the age of retirement having been raised by GOI from 58 years to 60 years in May, 1998 applicant is getting the benefit of that order. Hence as per respondents' reply, their order dated 15.1.98 (Annexure-1) which is impugned, stands superseded by their decision to raise the age of retirement from 58 years to 60 years, and does not require any order from the Tribunal.

4. As regards applicant's claim to be appointed as Guidance Officer on regular basis w.e.f. 2.9.88, ~~on regular basis~~ respondents point out that the aforesaid post fell vacant consequent to the unfortunate demise of one Shri R.C. Gupta a general candidate. This post of Guidance Officer was the only post in the Deptt. and since the post fell on a Roster Point, it was to go to a SC candidate, but as no SC candidate was available, steps were taken to dereserve it, so that promotion to a general candidate could be given. Respondents state that the process of dereservation was lengthy and complicated, and final clearance was given by GOI on 12.8.97, and thereupon pending

consideration by UPSC for his regular appointment, he was promoted as Guidance Officer on adhoc basis w.e.f. 12.11.97.

5. A perusal of the relevant RRs notified on 25.12.73 under Article 309 of the Constitution (Annexure-5) for filling up the post of Guidance Officer reveals that Councillor I/C EVG with 8 years service (in the typed copy furnished by applicant at Annexure-5, it is stated "a year's service" but that should probably read "8 years' service") in the grade rendered after appointment thereto on a regular basis, would be eligible for consideration for promotion as Guidance Officer.

6. On 2.9.88 applicant did not have 8 years regular service as Councillor I/C.

7. Under the circumstance, it is not possible for us to direct respondents to treat applicant as promoted/appointed as Guidance Officer w.e.f. 2.9.88 as prayed for by him, and the rulings cited by applicant's counsel including 1988(2)SCC 214; 1993(3) SCC 379 Aghore Nath Dey's case; and 1997 (6) SCC 406 I.K.Sukhija's case do not advance applicant's claim.

8. The OA is disposed of in terms of paras 3 and 7 above. No costs.

*Kuldeep*  
( KULDIP SINGH )

MEMBER (J)

*Anil*  
( S.R.ADIGE )  
VICE CHAIRMAN (A).

/ug/