

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

R.A. 73/95 IN
O.A. 1874/94

New Delhi, dated the 16/4 April, 1995

HON'BLE MR. J.P. SHARMA, MEMBER (J)

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

1. Shri Tirkha Ram,
S/o Shri Baldev Singh
E-1182, Netaji Nagar, New Delhi.
2. Shri Hem Chander,
S/o late Shri Kewal Ram,
18-G, Mir Dard Road, New Delhi.
3. Shri Darshan Kumar,
S/o Shri Lahori Ram,
Government of India Press, Minto Road,
New Delhi.
4. Shri Ram Dass,
S/o Shri Chetty Lal,
Government of India Press,
New Delhi.
5. Shri Shanti Swarup Garg,
C-118, Minto Road Complex,
New Delhi-110001.

..... APPLICANTS

VERSUS

1. The Union of India through the
Secretary, Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. The Director of Printing,
Nirman Bhawan,
New Delhi-110011.
3. The Manager (PLU),
Government of India Press,
Minto Road,
New Delhi-110001.

..... RESPONDENTS

ORDER (BY CIRCULATION)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this R.A. bearing No. 73/95 filed by Shri Tirkha Ram & Others on 6.3.95 it has been prayed to review judgement dated 17.2.95 in O.A. 1874/94 Government of India Press Photo Lithe Trade Workers Union through its General Secretary and Shri Tirkha Ram & Others vs. Union of India & Others.

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2. In that D.A. the applicants had prayed for quashing of orders dated 26.11.92 and 15.7.94 (Annexure 1 to Annexure 3 of that D.A.) and for a declaration that as long as there was no change in the functional responsibilities of offset machinemen, machine operators, key board operators etc, their retirement age be taken as 60 years and not 58 years. After hearing both parties on merits that D.A. was dismissed by the impugned judgement against which this R.A. has now been filed, on the ground that there are errors apparent on the face of the record.

3. The first error alleged is that it is FR 56(b) which is material, and the Recruitment Rules do not contain any information or stipulation as to the date of retirement. This contention is wholly without merit, because the impugned judgement nowhere treats the Recruitment Rules as the authority as to the date of retirement. The impugned judgement merely noted that the Recruitment Rules had been amended in 1993 to show offset machinemen as Master Craftsmen, and thus the benefit of FR 56(b) was no longer available to them, and this amendment was not noticed by the Ernakulam Bench of CAT in their judgement in the case Raju Susay Vs. Union of India 1994 (27) ATC 726. This contention is, therefore, rejected.

4. The next error alleged is that when the order dated 26.11.92 wherein the stipulation of age of retirement as 58 years of various grades was made was quashed by the CAT (Ernakulam Bench), and it was put to respondents' counsel how the age of retirement at 58 years could be sustained, he was unable to reply, but this was not considered in the judgement. This contention is also without foundation, as the judgement was delivered after satisfying ourselves that the proper age of retirement of the

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applicants as per law has to be 58 years, because they were not entitled to the benefit of FR 56(b) and the Ernakulam Bench's judgement in Susay's case (Supra) was per incuriam.

5. The next error alleged is that the respondents had never contended that there has been a change in functional responsibilities of the applicants and yet in the impugned judgement/has been held that there has been a change in their functional responsibilities. The respondents in their reply have clearly stated that the recategorisation of the posts held by the applicants had been made after thorough job evaluation (paragraph 3). Hence this contention also fails.

6. Next it is alleged that the Tribunal has erroneously held that the ingredients in the case S.K.Sharma Vs. Mahesh Chandra 1983 (4) SCC 214 has been satisfied, which lays down that it is the functional responsibilities which is the touch stone on which such claims have to be decided. As we categorically held in our judgement that the recategorisation/reclassification has meant a change in of the applicants duties/from those of workmen to that of supervisor, no error has been committed. This ground also fails.

7. Next it has been urged that an error has been committed in giving undue weightage to the respondents contention that the applicants were/stopped from challenging the OM's/order that have issued in consequence of the inter-departmental committee's recommendations dated 29.7.88, as the Report containing those recommendations has itself not been challenged. In our judgement we had only made mention of this averment, ^{no} undue weightage was given to it. Hence this ground also fails.

8. The next ground urged is that an error has been

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committed in not considering the applicants' averments that even after the issue of OM under challenge, Offset machinemen have continued to retire only after attaining the age of 60 years and they have continued to be treated as workmen, by being permitted to participate in work committees etc. Even if existing offset machinemen have been allowed to retire at 60 years, and they have been permitted to participate in Work Committees, it does not invalidate the proportion that consequent to the recategorisation of posts based on job evaluation, the applicants have entered the supervising category and were no longer eligible for the benefit of FR 56(b).

9. The next ground taken is that in Susay's case (Supra) it was the order dated 26.11.92 which was assailed and struck down by that judgement, and by virtue of two judgements, a dichotomy has been created, more so because the Union of India has already acted on the Tribunal's judgement in Susay's case and the order dated 26.11.92 does not exist at all. As such the respondents are not authorised to declare the age of superannuation of the applicants as 58 years. If as claimed by the applicants the impugned order is non-existent having been struck down, thereafter the applicants/ would have no cause of action, and the O.A. is fit to be dismissed on that ground.

10. Next it has been argued that as the applicants were recruited prior to the amendment to the Recruitment Rules and they were holding the post of offset machinemen as per the then Recruitment Rules and according to the provisions of FR 56(b) their age of superannuation was 60 years, the amendments to the Recruitment Rules cannot take away their right to superannuate at 60 years with retrospective effect. This argument is misconceived, because the amendment to the

Recruitment Rules have nowhere by themselves affected the right of the applicants with retrospective effect. What has been done is that consequent to the reclassification of posts based on job evaluation, the posts held by the applicants have been put in the category of Group 'C', i.e. the supervisory category with higher pay-scales admissible for that category, and this has been reflected in the Recruitment Rules through amendment. Hence this ground also fails.

11. In the result this R.A. is rejected.

Adige
(S.R. ADIGE)

Member (A)

Sharma

(J.P. SHARMA)
Member (J)