

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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A
O.A. No. 1365 of 1996

New Delhi, dated the 15th July, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri R.N. Aggarwal,
R/o CD-4, HG/Govt. of NCT Of Delhi,
Raja Garden,
New Delhi-110015. ... APPLICANT

By Advocate: Shri R.S. Mahala,

VERSUS

1. U.O.I. through
the Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Govt. of NCT of Delhi,
through the Chief Secretary,
5, Shamnath Marg,
Delhi.
3. The Commandant General,
Civil Defence & Home Guards,
Govt. of NCT of Delhi,
Raja Garden,
New Delhi. ... RESPONDENTS

By Advocate: Shri Arun Bhardwaj

JUDGMENT

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

Applicant impugns respondents order dated 21.6.96 retiring him w.e.f. 30.6.96 upon attaining the age of 58 years.

2. Applicant was working as UDC in Municipal Corporation of Delhi when Delhi Administration took over Middle Schools and Higher Secondary Schools with staff, accessories, etc. w.e.f. 1.7.90 vide MCD resolution dated 12.5.70 (Annexure I). Applicant invites attention to para 7 of the terms and conditions of the take over (Ann. 2) which provided that the age limit for

for retirement of officers, teachers and other employees of MCD which was 60 years was to be retained after absorption provided Govt. of India accorded their approval. He states that pursuant to letter dated 1.6. 70 (Ann. 3) from Director of Education, Delhi Admn. asking for acceptance of the terms and conditions, he gave his acceptance in the prescribed form (Ann. 4). Applicant does not deny that persons like him who were absorbed from MCD into Delhi Admn. were known as employees of special cadre.

3. Respondents' order dated 3.2.88 clearly states that the following DASS Grade III officers are being promoted to DASS Gr.II on ad hoc basis and applicant is one of those so promoted. The order dated 20.9.95 (Ann.5) regularising applicant's appointment in DASS Grade II w.e.f. 6.6.84, and gives him position at Sl. No. 2860-A in the DASS Gr.II seniority list. This order dated 20.9.95 clearly notices that applicant belonged to the special cadre of UDC taken over from MCD.

4. As applicant upon coming over to Delhi Admn. became a member of DASS cadre, there is merit in respondents' contention that the terms and conditions applicable to members of DASS would be applicable to him, one of which is retirement on superannuation at 58 years.

5. Applicant relies upon the case of one Shri Kundan Lal who is referred to in letter dated 2.1.84 (Ann. 6) from Administrative Officer, Dte. of Education to the Principal GBSS School, Adarsh Nagar, Delhi. Respondents in their reply have stated that the authenticity of this letter needed to be verified. We had wanted to see the records on the basis of which this letter is said to have been issued, but despite time given to respondents to produce the same they failed to do so.

6. Under the circumstances, we are unaware of the circumstances under which this letter issued. Even if this letter is assumed to be genuine, applicant has not succeeded in establishing that Shri Kundan Lal was allowed to continue in service till 60 years of age despite being a member of DASS cadre. In fact there are no materials to show whether he was a member of DASS cadre or not.

7. In our view, having become a member of DASS, applicant is governed by the terms and conditions applicable to member of that service, one of which is retirement on superannuation at 58 years of age and cannot now claim that he should continue to remain in service till 60 years on the strength of the MCD resolution dated 12.5.70 or the

letter dated 2.1.84. If applicant's prayer were allowed, it would be creating a sub class within a class, without any reasonable basis.

Applicant has not been able to cite any case of a person from the special cadre who later became a member of DASS and was allowed to continue in service till 60 years of age.

8. We are fortified in our view by the Tribunal's judgment dated 15.1.93 in O.A. No.1955/92 Shri Ved Prakash Gupta Vs. U.O.I.

9. In the result this O.A. warrants no interference. It is dismissed. No costs.

Lakshmi

(Mrs. LAKSHMI SWAMINATHAN)
Member (J)
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(S.R. ADIGE)
Member (A)