

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

CA No. 1822/96

(7)

New Delhi, dated this the 19th February, 1997

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

Shri Puran Lal,
S/o Shri Ganesh Lal,
Library Attendant,
in I.C.A.R., Krishi Bhawan,
R/o B-48A, DDA Slum Quarters,
Paschim Puri,
New Delhi-110063.

.... APPLICANT

By Advocate: Shri K.P. Dohare

VERSUS

1. Union of India through
the Secretary,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi-110001.

2. Director General,
I.C.A.R.
Krishi Bhawan,
New Delhi-110001. RESPONDENTS

By Advocate: Shri N.S. Dalal

J U D G M E N T

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

Applicant seeks quashing of

(i) orders dated 26.6.96 (Ann. A-1) classifying the post of Library Attendant as Class III (Group C) instead of Class IV (Group D);

(ii) orders dated 18.7.96 retiring him w.e.f. 31.1.95; and

(iii) orders dated 16.8.96 rejecting his appeal dated 23.7.96 against the orders dated 18.7.96.

He prays for a direction to the respondents to allow him to work as Library Attendant till 31.1.97 i.e. till he completed 60 years of age on 8.1.97 under FR 56(E) with consequential pensionary benefits.

(8)

2. Admittedly the date of applicant's birth is 8.1.37 and he was appointed as Library Attendant on permanent basis w.e.f. 1.2.76. Applicant bases his case on the provisional seniority list of Class IV staff of Respondents' organisation in the grade of Library Attendant as on 31.12.94, in which his name occurs, and contends that as the post Library Attendant is in the seniority list of Class IV, he is entitled to continue in service till 60 years under FR 56(E). However, Respondents have filed a copy of the relevant Recruitment Rules, which is taken on record from which it is clear that the post of Library Attendant is a Class III post, and hence the applicant should have been retired on superannuation on attaining the age of 58 years itself. Under the circumstances applicant's claim that he being a Class IV employee is, therefore, entitled to continue in service till 60 years of age under FR 56(E) has no merit. Applicant also contends that one Balbir Singh was granted a similar treatment. However, Respondents have frankly admitted in their reply that administrative lapse was committed in Balbir Singh's case for which disciplinary action has been initiated against the person on default. In any case it is well settled that one irregularity cannot justify another. Under the circumstances, applicant's prayer to be allowed to continue in service till 31.1.97 fails.

9

3. In this connection we note that the Respondents have subsequently issued order dated 10.1.97 modifying their earlier order dated 18.7.96 a copy of which is taken on record, in which it has been decided that consequent to the orders dated 18.7.96 retiring the applicant retrospectively w.e.f. 31.1.95 the period from 1.2.95 to 18.7.96 during which period the applicant has physically worked will be treated as extension of service in respect of the applicant subject to following conditions:

- i) as per normal procedure, applicant would have retired from service w.e.f. 31.1.95 on attaining the age of 58 years, however, he will be permitted to draw his pension after expiry of the extension period w.e.f. 19.7.96 onwards. The pensionary benefits so extended to him would be based on the last pay drawn by him on the date of his retirement from service;
- ii) He would be allowed to draw last pay drawn by him as on 31.1.95 during the period of extension of service; and
- iii) No benefit of increments to be allowed during the extension period but other service benefits will be allowed to him as admissible to the corresponding officials during the period of extension.

4. In the light of respondents' order dated 10.1.97 the O.A. warrants no judicial intervention. However, as the applicant was a low paid Govt. employee and is now a pensioner, and he was retained in service beyond 31.1.95 though no apparent fault of his own, it is only fair that in case he was

actually released any increments during the period 1.2.95 to 18.7.96 no recoveries of the same shall be made from him. Subject to what has been stated above, applicant's pension should be calculated and released to him as expeditiously as possible.

5. This O.A. is disposed of in terms of para 4 above. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)
/GK/

S.R. Adige
(S.R. ADIGE)
Member (A)