

Central Administrative Tribunal, Principal Bench



OA No. 1944/96

New Delhi this the 8th day of March, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Sh. T.K. Bhattacharyee

...Applicant

(By Advocate Shri Ashok Aggarwal, through proxy counsel
Shri Deepak Verma)

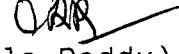
-Versus-

1. Union of India & Others ... Respondents

(By Advocate Shri N.S. Mehta, through proxy counsel
Shri H.P. Chakravorty)

1. To be referred to the Reporters or not? YES

2. To be circulated to other Benches of
the Tribunal? NO


(V. Rajagopala Reddy)
Vice-Chairman(J)

(8)

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Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Sh. T.K. Bhattacharyee,
S/o late Shri U.C. Bhattacharjee,
R/o E-5 Old Press Colony,
Faridabad Town, Faridabad.

(By Advocate Shri Ashok Aggarwal, through proxy counsel
Shri Deepak Verma)

-Versus-

1. Union of India, through
Secretary, Ministry of
Urban Works & Employment,
Nirman Bhawan, New Delhi.
2. The Directorate of Printing,
Government of India,
Ministry of Urban Works & Employment,
Nirman Bhawan,
New Delhi.
3. The Manager,
Government of India Press,
Faridabad.

(By Advocate Shri N.S. Mehta, through proxy counsel
Shri H.P. Chakravorty)

O R D E R (ORAL)

By Reddy, J.-

None appears for the parties either in person or through counsel. The proxy counsel are present only to mention that the Advocates are abstaining the Courts and to request adjournment of all cases. Since the matter is of 1996 and as we find that the reason for absence of the Advocates is not valid, we proceed to dispose of this case.

2. The applicant was initially appointed as Lino Operator in the Government of India Printing Press, Faridabad, in the pay scale of Rs.175-240 and he was confirmed in the said post in 1963. Subsequently he was

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given the selection grade of Rs.425-640 in 1984 and the scale of pay of the Lino Operator (selection grade) was revised w.e.f. 1.1.86 to Rs.1400-2300. The applicant states that right from his initial appointment he has been performing the duties of the Lino Operator and he continued to perform the duties of Lino Operator even after he was given selection grade. The nature of duties of work performed by the applicant as Lino Operator were pre-dominantly of manual nature. He used to compose all matter on the Linotype machine in the same manner as for hands composing. His nature of duties did not at all change after he was given the selection grade. He, therefore, submits that he is a workman within the meaning of FR 56 (b) and is, therefore, entitled to remain in service upto the age of 60 years. However, as the respondents issued the impugned order requiring the applicant to retire at the age of 58 years, the applicant had to file the present OA. The applicant submits that he falls within the category of workman as defined in FR 56(b), irrespective of the scale of pay he receives. He also cites the instance of one Mr. Lakhbir Singh who was allowed to retire at the age of 60 years, though he was drawing the same scale as the applicant.

3. In the reply it is stated that as the applicant has been drawing the pay scale of Rs.1400-2300 which has been identified as the supervisory scale by the Government in the OM dated 14.11.95 and corrigendum dated 11.12.95, the applicant cannot be called as a workman. Accordingly, the applicant has been retired at the age of 58 years.

4. Since we are not given the assistance of the counsel for the parties, we have given a very careful consideration to the pleadings and the points urged in the OA.

5. The short question that is involved in this case is whether the applicant comes within the category of workman as defined in FR 56 (b) so as to allow the applicant to remain in service upto the age of 60 years. FR 56 (b) reads as under:-

"A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

NOTE- In this clause, a workman means a highly skilled, skilled, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment"

6. It is the case of the applicant that he is a workman as he was appointed as a Lino Operator and continued to be working as such till the impunged orders are passed. He categorically stated that his nature of duties are pre-dominantly manual and that he has to compose all matters on the Linotype machine in the same manner as per hand composer. Though, it is true that he was given the selection grade in 1986 and his pay has been revised to Rs.1400-2300, he asserts that his nature of duties remained the same even after the selection grade was granted to him. The respondents, however, disputes that the applicant is a workman only on the ground that the scale which he was drawing, is the scale which has been identified by the Government of India as the scale of Supervisory category. The respondents, however, did not dispute that the assertion

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regarding the nature of duties of Lino Operator are pre-dominantly manual and that he continued to work as a Lino Operator even after he was given the selection grade. The question, therefore, is whether the mere drawing of a supervisory scale without the nature of duties being altered and continued to be ^{performing} ~~the~~ duties of workman, will the applicant cease\$ to be a workman? In the note appended to FR 56(b) the workman is defined as highly skilled, skilled, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment. Thus the definition of workman has no relation to the pay scale. If a person is discharging the duties mentioned in this note as a highly skilled or skilled or semi skilled or unskilled artisan he ~~is~~ to be considered as a workman within the definition of FR 56 (b). The applicant has tried to substantiate the averments as regards his nature of duties by filing Annexure 'E' ^{from} ~~where~~ where it could be noticed ^{what} the nature of duties of Linotype Operator. It appears that the Linotype Operator has to compose on the Linotype machine in the same manner as for hands composing. He is supposed to give 5000 current ens. The quantity of work done is measured in ens. The duties also appear to comprise of simple tabulation. But it should be noticed that the respondents have not significantly denied the averments made by the applicant in the OA that the functions comprise of artisan and that they will have to compose all matters as per hand composing and they are supposed to give 5000 current ens.

7. In Chhange Lal vs. Municipal Corporation of Delhi, CWP 2532-33 of 1987 dated 28.2.89, the question that was considered by the High Court of Delhi was whether the designation given to the applicant therein as Foreman

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(Case) after the nature of duties into the supervisory duties pre-dominantly? Considering the facts in the said case and the list of duties of Foreman notified by the Municipal Corporation of Delhi where his duties comprised of composing matter into pages and ^wsend the proof to Reading Section for reading etc. the Court found that the job of the petitioners in the said case was "to arrange, adjust and fix with his own hands the small composed lines in a proper case, to make-up the matter neatly into pages and to prepare the proof for the Proof Reading Section and to carry out and arrange corrections marked by Proof Reader and to send the same to Machine Section for printing along with proofs."

8. In view of the above, the Court found that they were performing the job with their own manual hands and skill. The predominant nature of the duties of the petitioners are that of a skilled artisans and they did not alter after the designation was altered as Foreman into Supervisory.

9. What ^{is} ~~thinks~~ the nature of the duties of the applicant whether they are manual and skilled, semi-skilled etc. to come within the definition of workman in FR 56 (b). It is not in dispute that if he is a workman, he is entitled to continue in service upto the age of 60 years.

10. In view of the aforesaid discussion, we hold that the applicant is a workman and is entitled to continue in service till the age of 60 years.

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11. The applicant must have retired from service, hence he is entitled for fixation of his pay and pension taking the age of retirement as 60 years. No costs.

2. 9-

(Smt. Shanta Shastry)
Member (Admnv)

'San.'

Om Prakash
(V.Rajagopala Reddy)
Vice-Chairman (J)