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(295)

Central Administrative Tribunal  
Principal Bench

O.A. No. 851 of 1996

New Delhi, dated this the 6<sup>th</sup> DECEMBER, 2000

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

Shri Tarun Singh,  
8-2, Sub Division,  
Sector I R.K. Puram,  
New Delhi.

.. Applicant

(By Advocate: Shri M.L. Chawla)

Versus

1. Union of India through  
the Secretary  
Dept. of Urban Development,  
Nirman Bhawan, New Delhi.
2. The Director General of Works,  
Central Public Works Dept.,  
Nirman Bhawan, New Delhi.
3. The Superintending Engineer,  
Food Circle VII,  
R.K. Puram, West Block,  
New Delhi.
4. The Executive Engineer,  
Food Circle VII,  
R.K. Puram, West Block,  
New Delhi.

.. Respondents

(By Advocate: Mrs. P.K. Gupta)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant seeks a direction to respondents to retain him in service till he attains the age of 60 years under FR 56 (b).

2. It is not denied that applicant who commenced his service as Asst. Carpenter on 17.6.61 and was promoted as carpenter on 4.3.71 was further promoted as Works Assistant on 30.5.85. As on 1.1.86 the pay scale of works assistant was Rs.1200-1800

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(26)

which brings <sup>- the post</sup> ~~in~~ within Group C category for whom the age of retirement was 58 years.

3. The O.A. was disposed of by order dated 11.9.96 with a direction that if applicant made a representation to the competent authority, the same was to be disposed of by a speaking order by 29.10.96.

4. Aggrieved by non-implementation of the orders dated 11.9.96 applicant filed C.P. No. 280/96. That C.P. was disposed of by order dated 20.5.97 in which it was noticed that in terms of the earlier orders passed in the C.P. respondents had passed orders on 23.12.96 rejecting applicant's claims to continue in service till 60 years under FR 56(b). However, as another case was pending before the Bench in which orders were reserved, the C.P. was disposed of giving liberty to revive the O.A. through an M.A. in the event that decision was in that applicant's favour.

5. That case relates to O.A. No. 2081/96 filed by Dhan Ram Vs. Union of India, Dhan Ram who was working as a Heavy Vehicle Driver, and was promoted to the post of Van Checker (Rs.1200-2040) w.e.f. 6.9.94 claimed that he was entitled to continue in service till 60 years under FR 56(b). That O.A. was allowed by order dated 6.2.98.

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6. Accordingly applicant filed M.A. No. 130/99 for revival of the O.A. No. 851/96.

7. Heard both sides.

8. FR 56 reads thus

- a) Except as otherwise provided in the rule every Government servant shall retire from service in the after noon of the last day of the month in which he attains the age of 58 years.
- b) a workman who is governed by the rules shall retire from service on the after noon of the last day of the month in which he shall attains the age of 60 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.

- (c) .....
- (cc) .....
- (d) .....
- (e) A Government servant in Class IV service or post shall retire from service on the last day of the mmonth in which he attains the age of 60 years.

Provided.....

9. From the foregoing it is clear that applicant can succeed in his claim to be retained in service till he atains the age of 60 years under FR 56(b) only if he can establish that he is a workman which is defined in the Note below FR 56(b) as an artisan employed on a monthly rate of pay in an industrial or work charged establishment.


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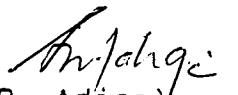
10. Applicant himself states in his O.A. that he was working in C.P.W.D. as Works Assistant and was transferred from work charged to regular establishment. Thus as per his own showing at the time he attained the age of 58 years he was in regular establishment of C.P.W.D. No materials have been furnished by applicant to establish that C.P.W.D. is an industry and applicant at the time he attained 58 years of age was working in an industrial establishment.

11. Applicant has referred to certain rulings but in the light of the aforesaid rule position, those decisions do not advance applicant's case.

12. Meanwhile we note that applicant has himself unfortunately expired, and his legal heirs have filed M.A. No. 785/2000 to be brought on record.

13, In the light of the foregoing discussion, the O.A. warrants no interference and is dismissed. No costs.

  
(Dr. A. Vedavalli)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

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