

Central Administrative Tribunal  
Principal Bench  
New Delhi  
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O.A.No.516/97

New Delhi, this the 7th day of March, 1997.

Hon'ble Mr. Justice K.M. Agarwal, Chairman  
Hon'ble Mr. N. Sahu, Member (A)

S.N.Kakar,  
S/o Shri Shiv Narain Kakar, aged 58 years  
Additional Secretary & Financial Adviser,  
Ministry of Surface Transport,  
Govt. of India, New Delhi.  
R/o E-2/3, M.S.Flats, Sector-13,  
R.K.Puram,  
New Delhi-110066.

....Applicant

(By advocate: Shri A.K.Behara)

Versus

1. Union of India through  
the Cabinet Secretary,  
Rashtrapati Bhawan,  
New Delhi.
2. Secretary, Department of Expenditure,  
Ministry of Finance & Chairman,  
Empowered Committee for processing the  
Report of Fifth Central Pay Commission,  
North Block,  
New Delhi-110001.
3. Secretary,  
Ministry of Personnel, Public Grievances &  
Pensions, North Block,  
New Delhi-110001.
4. Secretary,  
Ministry of Surface Transport,  
Transport Bhawan,  
1, Sansad Marg,  
New Delhi-110001.
5. Chief Secretary, (proferma respondent)  
Govt. of West Bengal,  
West Bengal Secretariat,  
Calcutta.

....Respondents.

ORDER (ORAL)

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN

By this petition, under Section 19 of the A.T.  
Act, the applicant seeks a declaration that persons  
retiring from Govt. service after the receipt of the

*[Signature]*

recommendations of the Fifth Pay Commission by the respondents form a single class for the purpose of taking a decision on recommendation no.71 of the Pay Commission in regard to the age of superannuation and accordingly a further declaration is sought for directing the respondents to take appropriate decision on the said recommendation of the Fifth Central Pay Commission within a period of 15 days with consequential relief of extending the benefit to retired Govt. servants like the applicant by treating them to be in continuous service.

We are of the view that this petition has no substance. No such direction or directions, as sought for by the applicant in his application, can be given against the respondents. However, referring to a decision of the Supreme Court in Food Corporation of India Vs. Ms. Kamdhenu (reported in 1993, Vol.I, SCC, 71) and particularly the observations made and conclusions arrived at by the Supreme Court in paragraphs 7 and 8 thereof, the learned counsel for applicant submitted that the applicant had legitimate expectation of continuing in service or at least for being considered to be continued in service after the existing date of superannuation. However, according to us, this cannot form to be a relevant consideration for admitting the present application for hearing.

Learned counsel also wanted to make further arguments in this regard but we expressed out disinclination to hear further arguments in view of the fact that according to us, all this, at the most, may be of academic interest but not relevant for purposes of deciding the present application.

For the foregoing reasons, we find no substance in this application and accordingly it is hereby summarily dismissed.

*Yours*

(4)

Ld. counsel for applicant made a prayer to reserve the right of the applicant to file fresh petition on the basis of subsequent cause of action or facts arising hereafter or on the basis of facts arising subsequent to the date of this order.

We are of the view that in such cases, the applicant or any litigant has always a right to bring a fresh petition without any direction of the Tribunal in that regard. However, if it is considered necessary, the liberty is given to file fresh petition on the basis of fresh cause of action on subsequent facts.

Km  
( K.M. AGARWAL )  
CHAIRMAN

Narain Singh Sahni  
( N. SAHU )  
MEMBER (A)

/dkm/