

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 713/97

(39)

New Delhi, this the 6th day of September, 2000.

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Sh. Faqir Chand
son of Sh. Sant Ram,
Sector-V/34, R.K.Puram,
New Delhi.
(By Advocate: Sh. G.K.Srivastava)

VS.

1. Central Hindi Directorate,
through its Director,
West Block-VII, R.K.Puram,
New Delhi.
2. Union of India
Ministry of Human Resource Development,
through its Secretary,
Department of Education,
Shastri Bhawan,
New Delhi.
(By Advocate: Sh. V.K.Mehta and
Sh. Rajeev Bansal)
3. Director of Estates,
Nirman Bhawan,
New Delhi.

ORDER (ORAL)

By Mr. Justice V.Rajagopala Reddy,

Heard the counsel for the applicant and the
respondents.

2. The applicant seeks to quash the order dated 25.2.97
whereby he was required to retire from service on attaining
the age of 58 years. The applicant was initially appointed as
Peon in the respondents office, namely, the Central Hindi
Directorate. He was thereafter promoted in 1977 as Machine
Operator and in 1988 as Gestetner Machine Operator. Relying
upon FR 56(b) the applicant pleads that he was entitled to
continue to work till the age of 60 years as he was a skilled
artisan working in industrial establishment and thus a
'workman', within the meaning of F.R. 56 (b). It is the case
of the applicant that the Central Hindi Directorate has as its
main activity the publication of several books in Hindi and

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for the purpose of translating other languages into Hindi and for disseminating Hindi to non-Hindi areas in various parts of the country. Learned counsel, therefore, placing reliance upon Bangalore Water Supply & Sewerage Board Vs. A.Rajappa & Others and 1978 SCC (L & S) 215, contend that the Central Hindi Directorate should be an Industry, and he is entitled for the benefit under FR 56(b).

3. Learned counsel for respondents, Sh. V.K.Mehtha, however, submits that the respondent Hindi Directorate cannot be defined as an industry. The activities of the respondents are related to the functions engaged by the Government under Article 351 of the Constitution and cannot therefore be called an industrial establishment. It is a Government department mainly engaging in the propagation and development of Hindi through cultural programmes and voluntary Hindi organisation etc. and the publication and printing of books and exhibition and sale of the relevant material was taken by the Directorate is only incidental and minor activity. Hence, it is vehemently contended that it should not be treated as industrial establishment and the applicant was rightly retired on attaining the age of 58 years on superannuation on 28.2.97.

4. We have given careful consideration to the contentions raised in this case. The short question is whether the applicant, gestestner willing in the Central Hindi Directorate is a workman within the meaning of FR 56 (b). 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".

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5. This shows that 'workmen' governed by this Rule are entitled to retire only after the completion of 60 years of service. Examining and interpreting the meaning of the word 'Workman' in an analogous provision Rule 71 (a)(3)(a) under Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, the Supreme Court, in State of Orissa and others Vs. A.C.Mohanty JT 1995 (2) SC 6 held that it means an artisan workman who is working in an industrial or work charged establishment and such workmen are entitled is to retire on attaining the age of 60 years, and not all workman appointed in the Govt. It is not in dispute that Rule 71 (a) (3) (a) of the Orissa Civil Service Rules is an analogous provision to FR 56 (b). It is, therefore, clear that only an artisan workman working in an industry or work-charged establishment, is entitled to retire on attaining the age of 58 years.

6. The next step to be considered is whether Central Hindi Directorate is an industry or work-charged establishment. The case of applicant in this OA is that in the Directorate, Central Industrial Establishment. In support of his contention the learned counsel for the applicant has annexed to the amended OA certain brochures, and prospectus showing the activities of the Directorate. A perusal of them make it clear that the Directorate has been publishing several books and carrying on correspondence courses and for that purpose the applicant has been engaged as Gestetner Machine Operator in the Directorate. It may be true, as contended by the learned counsel for the respondents that the Directorate has been established by the Government to disseminate and propagate the Indian languages through out the country, but for that purpose if it was found that the Directorate has been not, if it published several books in Hindi and also engaged

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in the activity of correspondence courses, the question that would arise is whether that activity would be treated as an industry. This question is no longer res-integra. The Supreme Court in Bangalore Water Supply and Board Vs. A.Rajappa & Others (supra) the Constitution Bench of the Supreme Court in its landmark judgment has categorically held that Delhi University whose main activity being imparting of knowledge to the students was an industry, learned counsel for the respondents, however, submits that the Supreme Court in a recent order has referred this matter to a Larger Bench as doubts have been expressed as to its validity. Whatever it may be as long as the judgment of the Supreme Court stands it is the law of the land as declared under Article 141 of the Constitution, when the University itself has been treated as an industry, the activities of the Central Hindi Directorate which appear to be more akin to an industry of publishing books, cannot be treated anything but industry.

7. There is no dispute that the applicant being a gestestner is skilled workman. In view of the foregoing discussion, we have to hold that the applicant is an Artisan workmen engaged in an industry at the time of his retirement. Hence he was entitled to have been continued in service until he attained the age of 60 years. It is now stated that he has retired from service at the age of 58 years, are, therefore, order properly 50% of back wages. His pay, however, should be fixed for the purpose of pension as if he has worked for 60 years. OA is, accordingly, allowed. No Costs

(GOVINDAM S. TAMPI)
Member (A)

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Om Bhupendralal -
(V.RAJAGOPALA REDDY)
Vice Chairman (J)