

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2475/94

199

T.A.No.

DATE OF DECISION 1-9-99

Sh. R. S. Rana

....Petitioner

Sh. K. B. S. Rajan

....Advocate for the
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

None for the respondents

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)
The Hon'ble Shri S. P. Biswas, Member (A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 2475/94

New Delhi this the **1st day of September, 1999.**

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.P. Biswas, Member(A).

R.S. Rana,
Senior Laboratory Technician,
Department of Pathology,
E.S.I. Hospital,
Basaidarapur,
New Delhi-110 015.

... Applicant.

By Advocate Shri K.B.S. Rajan.

Versus

1. Union of India through
Secretary,
Ministry of Labour,
Government of India,
Rafi Marg,
New Delhi.
2. Director General,
ESI Corporation,
4, Kotla Road,
Panchdeep Bhawan,
New Delhi-110 002.
3. Medical Superintendent,
ESI Scheme,
Hospital Complex,
Basaidarapur,
Ring Road,
New Delhi-110 015.

... Respondents.

None for respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order passed by the respondents dated 12.4.1994 in which they have stated that he will retire from service with them w.e.f. 31.1.1995 on attaining the age of superannuation. According to him, the respondents have wrongly taken his age of superannuation as 58 years instead of 60 years.

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2. The applicant was working as Senior Laboratory Technician with Respondent No. 3 w.e.f. 20.5.1990. This post is in the scale of Rs.1400-2300. Shri K.B.S. Rajan, learned counsel for the applicant, has submitted that under the Recruitment Rules for this post, it is a non-ministerial post and the general rules as applicable to other organisations are applicable to the employees of the respondents' organisations, his age of retirement should be 60 years. His submission is that the respondents had wrongly retired him at the age of 58 years by passing the impugned order dated 12.4.1994. He has relied on the Tribunal's order dated 3.4.1992 in Jai Ram Lal Vs. Union of India & Ors. (O.A. 2989/91), stating that the respondents have been held to be an 'Industry' under the Industrial Disputes Act. In that order, the Tribunal had considered the case of a Driver working with the respondent organisation and held that the post of Driver being technical comes within the definition of 'workman' as provided in FR 56 (b). Learned counsel contends that the main issue in the present case is whether the post of 'Senior Laboratory Technician' held by the applicant also comes within the definition of 'workman' as provided in FR 56 (b), and ^{he is} should, therefore, be entitled to be superannuated at the age of 60 years instead of 58 years, with all consequential benefits of pay and allowances. Shri K.B.S. Rajan, learned counsel, had sought one week to submit written submissions but that has not been done.

3. We have seen the reply filed by the respondents in which they have stated that the applicant is a Group 'C' employee and as per the rules followed by the respondent corporation, he had to retire on attaining the age of 58 years as laid down in FR 56 (a). The respondents have contended that FR 56 (b) is not applicable as the applicant

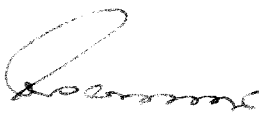
is not a 'workman' in the context of these Rules. They have also submitted that in the facts and circumstances of the case, Jai Ram Lal's case (supra), relied upon by the applicant relating to a Driver, is not applicable to his case ^{he} holds the post of Senior Laboratory Technician. According to them, the former is a manual worker and the latter is a scientific personnel, who under the conditions of ^{relevant} Regulations has to retire on attaining the age of superannuation of 58 years. The respondents have, therefore, submitted that the comparison sought to be drawn by the applicant's counsel between a 'Driver' and a 'Senior Laboratory Technician' is totally inapplicable. In the circumstances, they have prayed that there is no merit in the O.A. and the same may accordingly be dismissed, as the applicant is not entitled to any relief as the respondents have acted in accordance with the relevant rules. They have relied on the judgement of the Supreme Court in State of Orissa Vs. A.C. Mohanty & Ors. (1995 SCC (L&S) 522) followed by this Tribunal in M.H. Dulekar Vs. Employees State Insurance Corporation and Ors. (OA 1280/96) in which one of us (Smt. Lakshmi Swaminathan, Member(J)) was also a Member (copy placed on record).


4. We have carefully considered the facts and issues raised in this case with reference to the aforesaid decisions relied upon by both the parties. In M.H. Dulekar's case (supra) the applicant therein was working as Senior Operation Theatre Technician, who had also claimed that he was a 'workman' and, therefore, should be retired at the age of 60 years instead of 58 years. That claim was negatived after considering the facts and the decision of the Supreme Court in A.C. Mohanty's case (supra). In the present case, the applicant is a Group 'C' employee holding the post of Senior Laboratory Technician and under the relevant provisions of

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the ESIC (Staff and Conditions of Service) Regulations, he is to retire at the age of 58 years and not 60 years as claimed by him. The contention of the learned counsel for the applicant that he stands on the same footing as a Driver in the Corporation and further arguments based on this premise, is totally misconceived and inapplicable, particularly in view of the observations of the Supreme Court (supra). In A.C. Mohanty's case (supra), the Supreme Court had observed that in such a case "even the Director of Town Planning or Chief Architect" could be considered to be an Artisan coming within the definition of 'workmen' and would be entitled to superannuation on completion of 60 years of age, which argument was not accepted on the ground that this does not appear to be the object of the rules. We respectfully agree with the reasoning of the Supreme Court. In the light of the observations of the Hon'ble Supreme Court in A.C. Mohanty's case (supra), we find the arguments advanced on behalf of the applicant based on an earlier judgement of the Tribunal in Jai Ram Lal's case (supra) untenable as that judgement will stand overruled.

5. For the reasons given above, we find no merit in this application. The O.A. is accordingly dismissed. No order as to costs.


(S.P. Biswas)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'