

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1092/94/

(b)

New Delhi this the 29th Day of July 1999

HON'BLE MR. V. RAMAKRISHNAN, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. A.K. Mitra,
S/o Late Shri P.B. Mitra,
A-46 chitranjan Park,
New Delhi.
2. Shri Ved Kumar Jauhar,
S/o Shri Ishar Das Jauhar,
R/B E-117/1, Naraina Vihar,
New Delhi-110 028.
3. Shri Chander Bhan,
S/o Shri Duli Chand,
Resident of 3/364, BalChand Colony,
Nai Basti
Bahadurgarh (Haryana)
4. Shri Harbans Lal Anand,
S/o Late Shri Roop Lal Anand,
387/1 Bagh Kere Khan,
Kishan Ganj,
Delhi-110 007.
5. Shri Baij Nath,
S/o Shri Vesti Ram,
House No. 2988 Sant Nagar,
Shakur Basti,
Delhi.

Applicants

(By Advocate : Ms. S. Janani)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. Director General of Ordnance Services,
(Master General of Ordnance Branch),
Army Headquarters, South Block,
DHQ, P.C.,
New Delhi.

Respondents

(By Advocate : Shri N.S. Mehta)

ORDER (ORAL)

(1)

Hon'ble Mr. V. Ramakrishnan, VC (A)

The applicants, five in number, have approached the Tribunal seeking a direction to quash the Office Order No. 32619/DLD/OS-20 dated February 1994 and to direct the Respondents to continue them in service upto the age of 60 years and to grant them all consequential benefits as to the arrears of pay, seniority, pension and gratuity etc.

2. This is the second round of litigation. The same applicants had approached the Tribunal in O.A. 1583/87 seeking an identical relief. The Tribunal then referred to the provisions of FR 56(a) and (b). It also noticed that they were initially recruited as Industrial Workers and subsequently promoted to the post of Foreman and on their promotion the Department had treated them as non-Industrial Workers and retired them on completion of 58 years of service. The Tribunal, however, observed that in the case of Chandigarh Administration Vs. Ajit Singh and Anr. AIR 1990(2) SC page 1986, there was a direction by the Supreme Court that the matter should be remanded back to the Tribunal to consider that case. The Tribunal also observed that the condition of the applicants that similarly situated persons had been continued

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till the age of 60 years was not without substance. However, it came to the finding that the Tribunal could not decide whether the duties and functions performed by the Foremen of R&D are similar to those of applicants and the matter was referred back to the Respondents to take a decision within a period of three months. There was also a further direction that if there was no difference between the work and the applicants would be deemed to retire at the age of 60 years with all consequential benefits.

In pursuance of the Tribunal's direction, the Department has made an assessment of the nature of duties of Foremen in R&D in DRDO and the Organisation of the Director General Ordnance Services to which the applicants belong. We find that the job job chart of the Foremen of these two different Organisations has been brought out in the letter dated February 1994 as at Annexure A-1 to the O.A. We find therefrom that the Department on the basis of this comparative assessment had inter-alia come to the conclusion that the duties performed by the Foremen in the R&D Organisation are primarily to assist the Scientific and Research Groups as compared to the Foremen in AOC, who merely look after the Ordnance inventory. The Respondents have also brought out that the age of retirement for Scientists, Scientific Asstts/ Technical Personnel including foremen in R&D Establishment is 58 years, but can

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be extended upto the age of 60 years subject to fulfilment of certain conditions including the exemplary performance, whereas in the case of AAC and other Defence Establishments the retirement age of Officers Group 'B' and 'C' staff (Non-Industrial) including Foremen etc. is only 58 years and that there is no justification to enhance their age of retirement to 60.

3. Ms. S. Janani, learned counsel for the applicants submits that even as per the job chart there is a broad similarity of work and there is no reason as to why the present applicants should not also be continued till 60 years. Mr. N.S. Mehta, learned counsel for the respondents on the basis of material on record submits that the applicants are non-Industrial Workers and their duties are different from those of the Foremen in R&D Organisation.

4. We have considered the submissions of both the counsel. Admittedly, the applicants were promoted as Foremen which according to the Respondents have been treated as non-Industrial category. In terms of the provision of FR 56(a) the age of retirement for non-Industrial staff is the last date of the month on which they attain the age of 58 years. The Tribunal had taken note of the position in O.A. 1583/87 but had only directed the respondents to make a comparison and make an assessment of duties and functions vis-a-vis Foremen R&D Organisation.

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We find that such a comparison had been done and it is not for the Tribunal to scrutinise the details of such comparison. All that we find is that the finding that the duties of the applicants is lower than those of Foremen in R&D is based on sufficient material and cannot be termed as perverse and the decision in this regard is not arbitrary.

4. In the light of the foregoing discussion, we see no reason to interfere with the decision of the respondents as contained in the letter dated February 1994 as at Annexure-A1. The O.A. is accordingly dismissed. No order as to costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

V. Ramakrishnan

(V. RAMAKRISHNAN)
VICE CHAIRMAN (A)

Mittal