

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2003/89
TAXN0:

198

DATE OF DECISION 29.11.91

Man Singh _____ Applicant (s)

Shri Sant Singh _____ Advocate for the Applicant (s)

Union of India & Urs. _____ Respondent (s)

Shri M.L. Verma _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. D.K. Chakravorty, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *✓*
4. To be circulated to all Benches of the Tribunal ? *✓*

(AMITAV BANERJI)
AMITAV BANERJI
CHAIRMAN
29.11.1991

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 29-11-91

O.A. 2003/89

MAN SINGH

... Applicant.

Shri Sant Singh

... Counsel for the applicant.

VERSUS

UNION OF INDIA & OTHERS

... Respondents.

Shri M.L. Verma

... Counsel for the respondents.

CORAM :

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

THE HON'BLE MR. D. K. CHAKRAVORTY, MEMBER (A).

JUDGEMENT

(Judgement of the Bench delivered by
Hon'ble Mr.D.K.Chakravorty,Member)

In this application under section 19 of the Administrative Tribunals Act 1985, the applicant, who was an AFV Driver Grade-I (Civilian) in the Central Vehicle Depot, Delhi Cantt. has assailed the letter dated 6.6.1989 sanctioning him pension and retirement benefits with effect from 1.10.1989. The applicant has prayed for issue of directions to the respondents not to retire him with effect from 30.9.1989 and retire him only after he completes sixty years of age on superannuation. The applicant, whose date of birth is 1st October, 1931, was employed as Civilian AFV

Driver Grade-I with effect from 3rd March, 1986 and was posted in the Central Vehicle Depot, Delhi Cantt. As an AFV Driver he had to drive vehicles of the capacity ranging between 30 to 60 tonnes including loading, unloading, night driving, and other heavy risk operations. The applicant submits that his assignment of duties are of highly skilled artisan and as such he is an industrial workman. In support of this contention he relied upon a letter dated 9.9.1988 issued by the Director General, Ordnance Services (Annexure A-2 of the paper book) in which it was stated that the provision of Ministry of Defence letter dated 17th March, 1986 regarding supply of uniforms was not applicable to AFV Drivers, as they are industrial employees who are issued items of protective clothing. He stated that being an industrial workman he has to retire at the age of sixty years like other industrial employees such as Mechanics, Electricians, Painters etc.

The application has been resisted by the respondents who have in their counter taken a preliminary objection that the application has become infructuous as the applicant had already retired on 30.9.1989. It has been stated that the letter dated 9.9.1988 annexed to the application was erroneously issued by the Army Head Quarters which has since been cancelled by the letter dated 8th September, 1989 (Annexure 'C' of the paper book) in which it has been clarified that AFV Drivers are non-industrial personnel. As the applicant was not a workman, the provisions of FR 56 (b) and Civil Services Regulations No.459(b) are not applicable to him and he has to retire on attaining the age of 58 years. In this connection he also invited reference to SRO 97 in terms of which Driver Grade-I (AFV) are Non-Gazetted,

Non-Ministerial and Non-Industrial employees. The respondents have prayed for dismissal of the application.

We have heard the learned counsel for the both the parties. We have also carefully gone through records of the case.

At the outset we reject the preliminary objection raised by the respondents that the application has become infructuous since the applicant had retired on 30.9.1989. At the time of admission of the O.A. on 29.9.1989, the Tribunal did not grant the interim relief prayed for but made it clear that if the applicant succeeds he will be compensated in terms of money.

The application can be disposed of on the short point whether the applicant is a workman governed by Fundamental Rules 56(b) which is reproduced below :-

(b) 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.

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.

The learned counsel for the respondents has produced before us an extract from the Gazette of India dated 31st March, 1979 in which SRO 97 dated 31st March, 1979 has been published. In this SRO, issued in exercise of powers conferred by the proviso to article 309 of the Constitution, the President has made rules called the

"Army Ordnance Corps (Group-C, Non-Industrial) Recruitment rules, 1979. In the schedule to this SRO it has been un-ambiguously made clear that the posts of Driver Grade-I (AFV) are classified as Civilians in Defence Services, Group-C" Non-Gazetted, Non-Ministerial and Non-Industrial.

It is obvious that while the applicant may be a highly skilled artisan he is neither holding an industrial post nor is he employed in an work charged establishment. He is, therefore, not governed by the provisions of FR 56(b). He is covered by FR 56 (a) and has, therefore, to retire from service on the afternoon of the last of the month in which he attains the age of fifty eight years. He has already superannuated, in accordance with the rules applicable to him on 30th October, 1989.

In view of the above discussion we find no merit in this application and the same is dismissed.

There will be no order as to costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY)

MEMBER (A)

Amitav Banerji
(AMITAV BANERJI)
CHAIRMAN