

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00031/2021

HYDERABAD, this the 20th day of January, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



Narasimhamurthy.P,
S/o Poojappa, Aged about 57 years,
Occupation : Skilled Farm Worker (TS),
Group C, Working at Silk Worm Seed Production Center
(SSPC), Central Silk Board, Govt of India,
Near Govt. Polytechnic College, Guddam, Hindupura,
Ananthapur Dist., A.P.

R/o Guvvalahalli (Vill), Bisalahally (Post),
Manchenahalli (Hobli), Gouribidanur (Taluk),
Chikkaballapura (Dist)- Karnataka – 561211.

...Applicant

(By Advocate : Mr. M.V. Krishna Mohan)

Vs.

- 1.The Union of India rep by Secretary,
Rep., by its Secretary, Ministry of Textiles,
Udyog Bhavan, New Delhi.
2. Central Silk Board,
Rep., by its CEO & Member Secretary,
Central Silk Board, CSB Complex,
B.T.M. Layout, Madivala,
Bengaluru – 560068.
- 3.Director,
National Silkworm Seed Organization,
Central Silk Board, IV Floor, CSB Complex,
B.T.M. Layout, Madivala, Bengaluru – 560068.
4. Silkworm Seed Production Centre,
National Silkworm Seed Project,
Central Silk Board, Guddam, Hindupura,
Ananthapur Dist., A.P. Rep by its Scientist B.

...Respondents

(By Advocate : Mr. S.S.Varma, SC for CSB)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed aggrieved by the order of the respondents dt. 02.01.2021 in regard to the retirement of the applicant on attaining the age of 58 years. The applicant seeks a direction to continue the applicant in service till the age of 60 years.

3. Heard both the counsel and perused the pleadings on record.

4. Recently, this Tribunal disposed of OA No. 249/2020 & Batch on 23.11.2020 in regard to the similar relief. Relevant observations of this Tribunal in OA 249/2020 are as follows:

“V. Applicant has pleaded that the Hon'ble Bangalore Bench of this Tribunal in OA 299/2018 & batch has allowed enhancement of retirement age to 60 years. However, respondents have filed WP No. 8889/2020 challenging the order of the Tribunal, which is pending admission before the Hon'ble High Court of Karnataka. In addition the award granted by the Central Industrial Tribunal in CR No 151/2017 on 1.4.2013, was stayed by the Hon'ble High Court of Karnataka in WP No. 18693/2014 vide interim order dated 30.4.2014, by observing as under:

“The Union of India-2nd respondent was not a party before the Central Industrial Tribunal, therefore notice to 2nd respondent is unnecessary. The reference of the industrial dispute and its adjudication is only as between the petitioner and the 1st respondent-Union and on that score too notice to 2nd respondent is unnecessary. 2nd respondent, at best, could have been a witness for the petitioner and not a party and therefore is not a proper and necessary party for this proceedings.

Sri V.S.Naik, learned counsel for the caveator takes notice for the 1st respondent.

Heard the learned counsel for the parties and perused the award impugned. There is no dispute that during the pendency of the industrial dispute, the Central Government issued a letter dt.8.8.2012 Annexure-N, permitting the petitioner to extend the benefit of retirement age upto 58 years in respect of Timescale farm workers. The order of reference also discloses that the justification for enhancement of retirement age from 55 years to 60 years, is a burden cast on the 1st respondent-Union. Prima



facie what is discernible is that the 1st respondent-Union placed strong reliance on the recommendation of the Fifth Pay Commission by which the age of retirement of Central Govt. employees was enhanced from 58 to 60 years, as also the admission in the cross-examination of MW-1 over the enhancement of retirement age from 58 to 60 years of identical workmen in the National Dairy Development Board, National Seeds Corporation Limited and Indian Council for Agricultural Research. It is no doubt true that the petitioner asserted that policy decisions such as retirement age was required to be taken by the Central Government in view of Section 11 of the Central Silk Board Act, 1948 and petitioner was bound by such a decision. Nevertheless, the question that requires to be answered is whether there was justification for enhancement of age from 55 to 60 years as the age of retirement of the Time scale farm workers.

If regard is had to the letter dt. 8.8.2012 Annexure-N, it is needless to state that there shall be an interim order staying the award impugned subject to petitioner implementing the letter dt.8.8.2012 Annexure-N for the Timescale farm workers of the Board until further orders.”

Applicant has pointed out that this Tribunal in OA 431/2020 has observed that judicial discipline has to be maintained by adhering to the judgments delivered by the higher judicial fora and the coordinate benches. We agree with the submission of the applicant and in view of the interim order of a higher judicial fora, namely Hon'ble High Court of Karnataka on 30.4.2014, we have to abide by the same, as per the said principle. Besides, the verdict of the Hon'ble Bangalore Bench referred to above, is also under challenge before the Hon'ble High Court of Karnataka and hence it cannot be gainsaid that the said verdict has not attained finality to be relied upon.

VI. Moreover, in view of the interim order of the Hon'ble High Court of Karnataka, staying the industrial Tribunal award of enhancing the retirement age to 60 years, the FR provisions relied upon by the applicant would not be of any assistance, to seek the relief sought. Even otherwise, for regularisation, applicant would have moved the Tribunal in 2018-19 to exercise his right but he slept over his right, which is not permissible as a well settled principle of law.

VII. After the judgment was reserved, applicant has forwarded, the decision of the Hon'ble Jammu Bench of this Tribunal in OA 43/2020, wherein relief was granted based on decision of the Hon'ble Bangalore Bench of this Tribunal in OA 299/2018. We have gone through the judgment of the Jammu Bench wherein reliance was placed on the legal principle that a coordinate bench decision has to be followed. The Bangalore bench decision was mainly based on the Central Industrial Tribunal order in CR No.151/2007 which was stayed by the Hon'ble Karnataka High Court in WP No.18693/2014. Therefore, the very basis of the judgment of the Bangalore Bench has, in effect, been stayed by the Hon'ble High Court of Karnataka. Further, even the verdict of the Bangalore Bench in OA 299/2018 is under challenge before the Hon'ble High Court in WPFR No.8889/2020. The legal principle to follow Coordinate bench forcefully applies when it comes to a superior judicial fora, which, in the present case, is the Hon'ble High Court interim order dated dt.30.04.2014 has to be respected and is binding. Respondents have challenged the Bangalore Bench decision in OA 299/2018 before the Hon'ble Karnataka High Court and hence, it cannot be said that the decision in the said OA 299/2018 has become final.

*VIII. Retirement age is a service condition and is a policy matter as held by Hon'ble Supreme Court in **P.U. Joshi &Ors. Vs. The Accountant General, Ahmedabad &Ors., 2003 (2) SC ATJ 624.**, the Tribunal cannot direct the*

Government by substituting its views in regard to policy matters relating to service conditions as under:



“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State subject to course, to the limitations or restriction envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by underrating further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/ posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

*More or less a similar view was ventilated by the Hon'ble Supreme Court in **K. Ananda Rao, etc. vs. Sri S.S. Rawat, IAS & Ors, etc.** on 7 March, 2019 in Contempt Petition (Civil) No.1045-1055 of 2018 in CA No.10276 of 2017 etc. etc., while dealing with the issue of enhancement of retirement age from 58 years to 60 years. The features contained in the policy document have to be adhered to, is the essence of the judgment, the relevant portion of which is extracted hereunder.*

“17. Thus, purely on the principle of parity the employees of the institution or entities in Schedule IX and X of 2014 Act could not demand the benefit of enhancement of the age of superannuation from 58 years to 60 years. That benefit came to be conferred under policy documents and finally by the GO dated 08.08.2017. Thus, the source was in those policy documents and naturally the extent of benefits was also spelt out in those instruments issued by the Government. The Circular dated 28.06.2016 which was more or less adopted in proceedings dated 11.06.2018 must be taken to be the governing criteria in respect of such employees. Unless and until that governing criteria was departed from specifically, mere expression “consequential benefits” would not entitle the concerned employees anything greater than what was contemplated in the policy documents issued by the State Government.”

IX. The above judgments which are relevant to the case on hand have not been referred to by the Hon'ble Benches of Bangalore and Jammu in their judgments in OAs 299/2018 and 43/2020 respectively.

X. Therefore, under the circumstances stated as at above, we dispose of the OA by directing the applicant to pursue for appropriate remedies from the respondents

based on the outcome of the WP. No. 18693/2014 filed before the Hon'ble High Court of Karnataka. With the above direction, the OA is disposed of with no order as to costs."

In view of the above, this Tribunal is of the view that this OA can be disposed of on the same lines.



5. Accordingly, the OA is disposed of with a direction to the applicant to pursue for appropriate remedies based on the outcome of the WP No. 18693/2014 on the file of the Hon'ble High Court of Karnataka. No order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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