



## Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.6962/2020  
(S.W.P. No.1743/2004)

Thursday, this the 10<sup>th</sup> day of December, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Darshana Devi W/o Sain Dass, R/o Village Tarore, Teh, Samba,  
District Jammu

...Applicant

(Mr. Firdous Ashiq, Advocate)

Versus

1. State of J&K, through Comm./Secy./Govt. PHE, Irrigation & FC Deptt's, Civil Sectt. Sng..
2. Chief Engineer, Ravi Tawi Irrigation Complex, Jammu.
3. Superintending Engineer, Mechanical, Irrigation & Flood Control Circle, Jammu.
4. Executive Engineer, Mechanical Division, Ravi Tawi Irrigation Complex, Jammu.
5. Chief Education Officer, Jammu.
6. Head Master Govt. Girl's High School, Tarore Samba, District Jammu.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

## O R D E R (ORAL)



### **Mr. Justice L. Narasimha Reddy:**

Sri Sain Dass, the husband of applicant was working as Helper in the Mechanical Division Ravi Tawi Irrigation Complex, Jammu, and relieved from service on 31.08.1992. Vide office order dated 03.08.2004, ex-post facto approval was given for his superannuation on 31.08.1992. However, a revised order was issued on 19.08.2004, directing that the date of retirement of the said employee would be 31.08.1990. Challenging that order and other connected proceedings, Sain Dass filed S.W.P. No.1743/2004 before the Hon'ble High Court of Jammu & Kashmir. It is stated that once he continued in service till 1992, there was no basis to mention that he is deemed to have retired from service w.e.f. 31.08.1990.

2. The respondents have filed a detailed reply, stating that the certificate of date of birth was verified from the concerned Headmaster, High School, Tarore. It is stated that a report dated 08.05.2004, was issued by the School, and on the basis of the entries made therein, an impugned order was passed. During the pendency of the Writ Petition, Sain Dass died on 25.03.2014. His wife Darshana Devi came on record.



3. In view of re-organization of the State of Jammu & Kashmir, the S.W.P. has been transferred to this Tribunal and renumbered as T.A. No.6962/2020.

4. Today, we heard Mr. Firdous Ashiq, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents, through video conferencing.

5. The impugned order was passed long after the retirement of the employee from service. To be precise, the employee retired in 1992, whereas the date of retirement was advanced to 1990, in the year 2004. The correction is said to have been made on the basis of the certificate on the basis of information furnished by the applicant.

6. Even if it is true, that the certificate issued by the School would result in the retirement of the employee in the year 1990, any steps in that behalf could have been taken before he actually retired from service on 31.08.1992. The question of advancing the date of superannuation of an employee does not arise once he retired from service. At any rate, the employee is no more. Viewed from any angle, the impugned order cannot be sustained in law.



7. The T.A. is accordingly allowed setting aside the impugned order and directing that the respondents shall not effect any recovery on the basis of the impugned orders. If recovery was made, the amount shall be refunded with interest at 6% per annum. There shall be no order as to costs.

**( A K Bishnoi )**  
**Member (A)**

**( Justice L. Narasimha Reddy )**  
**Chairman**

**December 10, 2020**

/sunil/dsn/sd/arun