

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

O.A.No.277/86

Date of Decision:17.09.1991

Shri Chandan Singh

Applicant

Shri M.K. Gupta

Counsel for the Applicant

Government of India Press
and Another

Vs.

Respondents

Shri N.S. Mehta

Counsel for the respondents

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The Hon'ble Mr. P.K. Kartha, Vice Chairman(J).

The Hon'ble Mr. B.N. Dhoundiyal, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. Dhoundiyal)

This OA has been filed by Shri Chandan Singh who was holding the substantive rank of Section Holder in the Government of India Press against the impugned order of retirement dated 30.7.85, whereby it was decided to retire him from Government Service w.e.f. 1.5.86. He is claiming that he cannot be retired before 30.4.88 i.e. before attaining the age of 60 years.

2. According to aforementioned impugned order, the applicant was to retire on 30.4.86. However, a stay order granted on that date and extended from time to time enabled him to continue working till he attained the age of 60 years on 30.4.88. The applicant has already been given pension and other retirement benefits calculated on the basis of his retirement on attaining the age of 58 years pursuant to the orders passed by the Tribunal and without prejudice to the rights and contentions of both parties.

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3. The brief facts of the case are as follows:

Appointed initially as Warehouse man on 19.6.45, the applicant was promoted as Binder on 19.10.47 and Section Holder in 1981. In October 1984 (on 13.7.84 according to respondents), he was promoted as Foreman on adhoc basis and till his retirement he continued to hold the substantive rank of Section Holder. According to him, the Supervisory hierarchy consists of Assistant Manager Press, followed by Overseer and Foreman. A Section Holder himself engages in the work and demonstrates the technique of the work to be performed by other binders. Though the pay scale of this post had been enhanced from Rs.380-560 to Rs.425-640, the nature of duties remained that of a highly skilled worker. The applicant was never invested with any powers of taking disciplinary action or making appointments or writing the confidential reports. Thus he is entitled to retire at the age of 60 years in terms of FR.56(b).

4. The respondents have stated that the duties of Section Holder (Binding) are mentioned in the Hand Book of Government of India, Presses (R1) which clearly show that they do not themselves engage in the actual work of binding but perform supervisory duties. Hence they cannot be categorised as workmen. This question was considered by a committee which recommended in their report dated 27.11.79, that the post of Section Holder (Binding) and Foreman (Binding) may be classified as Supervisory. The question was reconsidered and it was reiterated vide O.M. dated 8.4.83 that the categories of employees who have been

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classified as holding supervisory posts should be retired at the age of 58 years (R5). In their representations to the Government of India, the Press Workers Union has also acknowledged this fact while pleading for extension on other grounds.

5. We have gone through the facts of the case and heard the counsel for both parties. The question for consideration is whether the Section Holder(Binding) can be held to be discharging supervisory duties over binders. FR.56(b) reads as under:

"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, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work charged establishment".

6. In a similar case of Section Holders (Composing) decided by Principal Bench, of which one of us (Shri P.K. Kartha) was a member (Shri Roshan Singh Vs. Government of India Press, OA.438/86 decided on 22.4.88) a reference was made to the observations made by the Supreme Court in the case of All India Reserve Bank Employees Association & Another Vs. Reserve Bank of India & Another, (AIR 1966 SC 305 at 314-315), that where there is power of assigning duties and distribution of work, there is supervision. In this context the duties prescribed for the post in the Press Hand Book are extracted below:

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"The duty of the Section Holder is to generally assist the Bindery Foreman in every respect. He should keep a correct record of all jobs in the Bindery Branch and maintain their progress. All correspondence with departments and replies to reminders should be carefully dealt with by him in consultation with the Bindery Foreman. He should maintain the Log Book for the different groups entrusted with the Jobs. He is personally held responsible for the general supervision over the works of the different sections etc. Envelope, Counter, Salaried Binders, Ruling Section, Die Stamping Section, Stitching Section, Folding Section and Numbering Section, etc. All cases of binding orders with regard to the old books and registers should be carefully prepared by the Assistant Bindery Foreman. He should also prepare the binding orders of the Envelope and D.O. note papers according to Departments' instructions. He is also responsible for the maintenance of records of issue of printed sheets to outside contractors and of receipt of finished envelope from outside contractors. In case of casual absence of the Bindery Foreman, he should be able to carry on the duties of the Bindery Foreman. (vide Annexure R1 to the Counter Affidavit, page 12 of the paper book).

7. It is clear that the applicant was personally responsible for the general supervision over the works of different sections. Since the predominant nature of duty of the Section Holders is that of supervision, they cannot be categorised as workmen.

8. It is true that the age of retirement of the Section Holders was 60 years till 1982. The Government was empowered to reduce the age of retirement later, as has been held by Supreme Court in K. Nagaraj Vs. Andhra Pradesh, AIR 1985 SC 551.

9. In the facts and circumstances, we agree with the conclusion arrived at by the Tribunal in Roshan Singh's case, mentioned above, that the Government of India has rightly decided on the recommendation of the Categorisation Committee that the Section Holders discharge Supervisory work. This matter was reconsidered by them in 1983 and the earlier decision was upheld. Accordingly, we do not find any merit in this application and dismiss the same.

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Though the applicant was due to retire on 30.4.86 on attaining the age of 58 years, he continued to serve till 30.4.88 under the Stay Orders granted by this Court. His continuance in service beyond 30.4.86 will have to be in the nature of reemployment and not as regular service. His reemployment pay will have to be reduced by the pension and the pension equivalent of gratuity for the period from 30.4.86 to 30.4.88.

10. There will be no order as to costs.

B.N. Dhundiyal
(B.N. DHUNDIYAL) 17/9/91
MEMBER (A)

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN (J)