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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 434 of 1986
~~File No.~~

DATE OF DECISION 8.10.1986

Smt. Santosh Malhotra Petitioner

Shri N.N. Aggarwal Advocate for the Petitioner(s)

Versus

Director of Social Welfare & Ors. Respondent

Smt. Avinash Ahlawat Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.GADGIL, Vice-Chairman

The Hon'ble Mr. S.P.MUKERJI, Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? - 42
2. To be referred to the Reporter or not ? - NO
3. Whether their Lordships wish to see the fair copy of the Judgement ? - NO


(S.P. MUKERJI)
MEMBER


(B.C. GADGIL)
VICE CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Date of Decision 8-10-86

Registration No. OA 434/86

Smt. Santosh Malhotra ...Applicant

Versus

Director of Social Welfare ...Respondents
and others

For the Applicant: Shri N.N. Aggarwal, Advocate

For the Respondents: Mrs. Avinash Ahlawat, Advocate

CORAM: HON'BLE SHRI B.C.GADGIL, VICE-CHAIRMAN
HON'BLE SHRI S.P.MUKERJI, MEMBER

ORAL JUDGMENT: (Per Vice Chairman; Shri B.C. Gadgil)

The applicant was working as a Drawing Teacher under the Director of Social Welfare, Delhi Administration. He was attached to an institution known as Observation Home for Boys. Normally all these teachers were to retire on superannuation after completing the age of 58 years. However, on 6.9.83, the Government of India informed the Union Territory of Delhi (and other Union Territories) that the age of retirement of the school teachers at Delhi would be 60 years. It further stated that this provision will apply to teachers including the Laboratory Assistants, Librarians, Principals and Vice-Principals. On the same day, another letter was sent whereunder a fixed Medical Allowance at the rate of Rs.15/- per month was made permissible to all the categories of the teachers. We are told that the benefits of these orders were made available to the applicant's category of concerned staff under the Directorate of Social Welfare of the Delhi Administration. However, from January 1984

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the benefits of enhanced retirement age and of the said allowance were withdrawn. This can be seen from the letter dated 27.1.1984 (Annexure P-6). By that very letter, it was further provided that the previous order of retirement age as 60 years should be treated as withdrawn with respect to these teachers. However, on 29.3.1985 the said letter of 21.7.84 was withdrawn meaning thereby that the retirement age was prescribed at 60 and the medical allowance of Rs.15/- was again made available. But by this letter all this was made available, only to the three institutions of the said Directorate of Social Welfare, namely, (1) Government Lady Noyce School for Deaf and Dumb, (2) Government School for Blind Boys, and (3) Mental School for the mentally deficit Children, New Delhi. The applicant completed the age of 58 years on 30.6.86 and she was retired on that date. The grievance of the applicant is that the retirement at the age of 58 years is illegal and she has a right to continue in service upto the completion of the age of 60 years. She also contends that she ought to have been paid the Medical Allowance of Rs.15/- per month from January 1984 onwards. The third prayer of the applicant is that the applicant should be given stagnation increment which has been paid to other teachers similarly situated.

2. The respondents resisted the claim of the applicant by raising a number of contentions. However, it is not necessary to give those contentions in detail. It may be noted that the grievance was made by the applicant that the Drawing Teacher attached to various

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institutions even other than normal Schools have been granted the benefits of retirement at the age of 60 years as also the Medical Allowance of Rs.15/- per month. The respondents were, therefore, directed to file an affidavit to clarify the position. The said affidavit is filed and is at page 68 of the compilation.

3. We have already observed that the teachers from the three institutions mentioned in para 1 above have been given the benefit of the retirement at the age of 60 years as also the benefit of monthly Medical Allowance and other consequential benefits. The question arises as to whether those orders can equally apply to the applicant who is working in a school known as Observation Home. It was submitted that the teachers in the Observation Home and in the above mentioned three institutions were inter se transferable. The respondents' supplementary affidavit in reply makes the position clear that such teachers are transferable from one institution to another. Not only that, a combined seniority list of the Drawing Teachers of these Schools is maintained. The recruitment rules are also the same.

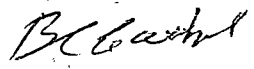
4. The net result of the above situation is that a Drawing Teacher who is fortunate enough to be attached to any of the three institutions mentioned in paragraph 3 above would be entitled to the benefit while the Drawing Teacher attached to the Observation Home will be excluded from that benefit. In our opinion, such an anomaly should not be permitted. It may as well be possible to imagine that the

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present applicant would have the advantage of retirement at the age of 60 years if she had been transferred to any of those schools prior to her attaining the age of 58 years. It is rightly submitted on behalf of the applicant that the existence or otherwise of the benefit of such retirement cannot be made dependent upon such fortuitous circumstances. We, therefore, hold that the applicant was entitled to continue in service upto the age of 60 years. Similarly, she would be entitled to have monthly Medical Allowance of Rs.15/- and to have the stagnation increment which the other teachers are getting.

5. The application is thus allowed. The respondents are directed to take back the applicant forthwith in service as a Drawing Teacher and to retire her only after she attains the age of 60 years. The intervening period from 30.6.86 till she is taken back in service shall be treated as duty period and she will be given all the emoluments and consequential benefits on that basis. In addition, the respondents are directed to pay to the applicant the monthly Medical Allowance at the rate of Rs.15/- from January, 1984 till she retires at the age of 60 years. We further direct the respondents should grant stagnation increment to the applicant as is permissible to other teachers. No order as to costs. A copy of this order should be given to the applicant for being handed over to the respondents so that the respondents would act immediately on the basis of this judgment.


(S.P. MUKERJI)
MEMBER


(B.C. GADGIL)
VICE CHAIRMAN