

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 438/86

1986

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DATE OF DECISION 22.4.88

Shri Roshan Singh

Petitioner

Shri B.S. Charya

Advocate for the Petitioner(s)

Versus

Government of India Press

Respondent

Shri N.S. Mehta

Advocate for the Respondent(s)

**CORAM :**

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

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

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

*S.P. MUKERJI*  
(S.P. MUKERJI)  
MEMBER (AM)

*P.K. KARTHA*  
(P.K. KARTHA)  
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. OA 438/86

Date: 22.4.88

Shri Roshan Singh

..... Petitioner

Versus

Govt. of India Press

..... Respondents

For Petitioner

..... Shri B.S. Charya,  
Advocate.

For Respondents

..... Shri N.S. Mehta,  
Advocate.

CORAM:

Hon'ble Shri P.K. Kartha, Vice Chairman.

Hon'ble Shri S.P. Mukerji, Administrative Member.

(Judgment of the Bench delivered by  
Shri S.P. Mukerji)

The applicant, Shri Roshan Singh, who was working as Section Holder in Government of India Press under the Ministry of Urban Development, has moved the Tribunal by his application, dated 11.6.1986 under Section 19 of the Administrative Tribunals Act praying that the impugned order of retirement dated 20.1.1985 may be set aside and it may be held that he cannot be retired before 30th June, 1988 (wrongly indicated as 30th June, 1985 in para 7 of the application) when he would attain the age of 60 years.

2. The brief facts of the case are as follows. The applicant was appointed as a Compositor on 8.10.1947 and was promoted as Section Holder in July, 1982 in the pay-scale of Rs.380-560 in the Government of India Press. According to the petitioner, the supervisory powers are exercised by the Assistant Manager in the Press and below him by the Overseers and below them by the Foremen. A Section Holder demonstrates the technique of work to be performed by the other staff and maintains registers

(17)  
(16)

about output of each member of his group and, therefore, the job of the Section Holder is of skilled/highly skilled nature as he has to do the work of binding with his own hands along with his other colleagues.

The applicant has argued that the Hand Book of Government of India Press designates only Foremen and above as those exercising supervision and are exempted from the operation of the provisions of the Factories Act. According to the applicant, Section Holder is a workman as defined in the explanation attached to F.R.56(b) and the revision of the pay-scale from Rs.380-560 to 425-640 cannot change this categorisation of the post. The applicant has no disciplinary or appointment power nor does he write the confidential report of any subordinate. Even teachers in the pay-scale of Rs.560-900 have been held to be 'workmen' under F.R.56(b). On these grounds, the petitioner claims that his age of retirement should be 60 years and the impugned order, dated 21.9.1985 retiring him at the age of 50 years with effect from 1.7.1986 should be quashed.

3. According to the respondents, the Press Hand Book of Government of India Presses indicates the duties of Section Holder (Composing) and according to these duties, the Section Holder and Foreman do not engage in actual work of composing and cannot be held to be 'workmen'. According to the respondents, the Categorisation Committee appointed by the Government, held that the post of Section Holder should be classified as supervisory and should carry a pay-scale of Rs.425-640. This recommendation was accepted by the Government. Accordingly, the Government decided that they would retire at the age

(18)  
(7)

of 58 years. It has also been argued by the respondents that even though the Section Holders cannot take disciplinary action or sanction leave, disciplinary action and leave is sanctioned on the recommendations of the Section Holder.

4. The whole case pivots on the question whether the Section Holder (Composing) can be held to be discharging supervisory duties over the Compositors. F.R. 56(b) is in the following terms: -

"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 60 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."

4(B). In All India Reserve Bank Employees' Association and Another Vs. Reserve Bank of India and Another (A.I.R. 1966 S.C. 305 at 314 and 315), the Supreme Court has observed that the word "supervise" and its derivatives are not words of precise import and must often be construed in the light of the context, for unless controlled, they cover an easily simple oversight and direction as manual work coupled with a power of inspection and superintendence of the manual work of others. It is, therefore, necessary to see the full context in which the words occur and the words of the Act are the surest guide. In that case, the question before the Supreme Court was whether employees of the bank were 'workmen' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. The Court observed that where there is a power of assigning duties and distribution of work, there is supervision. In this context, the following observations contained in the judgement are pertinent: -

".....the question whether a particular workman is a supervisor within or without the definition of "workman" is ultimately a question of fact, at

best one of mixed fact and law ..... and will really depend upon the nature of the industry, the type of work in which he is engaged, the organisational set-up of the particular unit of industry and like factor ..... No doubt, as Mr. Chari stated, the work in a bank involves layer upon layer of checkers and checking is hardly supervision but where there is a power of assigning duties and distribution of work, there is supervision."

5. The word "supervise" according to the Concise Oxford Dictionary connotes overseeing, superintending execution or performance (thing) or actions or work of persons. The duties of Section Holders in the Composing Branch has been delineated in the Press Hand Book of the Government of India Presses. The relevant portion is quoted as follows (Annexure R-1 to the counter affidavit) :-

"151. (152) Section Holders - They have the working charge of hand composing sections. They must know thoroughly the rules of the office, disciplinary as well as technical. They must also be specially acquainted with the rules and requirements of the reading section. They are particularly enjoined to distribute work to the compositors equitably and expeditiously, and to assist these in all technical matters in which their special experience and training will enable them to do so at the time of distributing it with all necessary instructions particularly mentioning the size and type to the Compositors, and then enter in their register against the Press Register No. and date, the time of commencement, folio Nos. and name of the compositor. Manuscripts should be taken back from the compositors and operators before being off duty. Materials required for the section should be included and kept under the safe custody and bulk supply should not be made to the operatives. They should specially see that type, lead, rule, furniture, etc., are not misused by the operatives."

(emphasis added)

6. A bare reading of the duties of Section Holders conveys the inexorable impression that their main function is to distribute and oversee the technical work of the Compositors. They are distributing work amongst the Compositors and acting as the friend, philosopher and guide in technical matters for the Compositors. It is on their recommendations that the higher management staff take disciplinary and other administrative action like

sanctioning of leave, etc., for the Compositors and Operators. As a matter of fact the Section Holders for practical purpose superintend the work of composing sections in the same manner as the Section Officer in the Central Secretariat superintend the work of normal sections. The very nomenclature of Section Holders lends them a parity with Section Officers so far as the character of their work being supervisory is concerned.

7. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned counsel for the respondents argued that since the applicant did not work with his own hands and cannot be held to be an artisan he does not come within the definition of "workman". The learned counsel for the applicant quoted a number of rulings to urge that the predominant nature of duties should be looked into to ascertain whether the employee can be categorised as a workman. In this connection the Supreme Court's ruling in Arkal Govind Raj Rao Vs. Ciba Geigy of India Ltd. Bombay, (1985) 3 SCC 371 was particularly mentioned. Even on the predominant nature basis of these rulings, we feel that since the L of duty

of the Section Holders is that of supervision, they cannot be categorised as workman. The learned counsel referred to the supply of soap and towels, getting of over-time allowance, the hours of work, etc., of the Section Holders to equalise them with workman. We are however not convinced by these arguments as an expert committee called Categorisation Committee had gone into these points and had definitely classified ~~qualified~~ the posts of Section Holders as supervisory like those of Foreman. The learned counsel argued that the age of retirement of Section Holders was 60 years till 1982 and, therefore, their age of retirement could not be reduced by the Government. This contention was negatived by the learned counsel for the respondents by quoting the ruling of the Supreme Court in K. Nagaraj Versus State of Andhra Pradesh, AIR 1985 SC 551 in which it was held that the age of the retirement can be reduced.

8. In the facts and circumstances we have no doubt in our mind that the Government of India had rightly decided on the recommendations of the Categorisation Committee that <sup>the</sup> Section Holders discharge supervisory work. The matter was re-considered by them in 1983 and the earlier decision was upheld. Accordingly, we do not find any merit in the application and reject the same. The applicant has been enjoying the benefit of the stay order issued by the High Court and continuing in service even after the normal age of superannuation. He was to retire on 30.6.1986. Since the application is rejected, his continuance in service beyond this date will have to be in the nature of re-employment and not as regular service. During the period of service after 30.6.1986, his

re-employment pay will have to be reduced by the pension and pension equivalent of gratuity.

9. In the result the application is rejected with the direction that the applicant should be considered to be on re-employment from 1.7.1986 till the date of communication of this order or the date of his discharge from re-employment whichever is later. There will be no order as to costs.

  
22/4/88  
(S.P. MUKERJI)

ADMINISTRATIVE TRIBUNAL

  
22/4/88  
(P.K. KARTHA)

VICE CHAIRMAN