

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(10)

...
REGN. NO. D.A. 858/86.

DATE OF DECISION: 20.10.1987.

Shri B.N. Mian

... Applicant.

Vs.

Delhi Administration
& Ors.

... Respondents.

CORAM:

Hon'ble Mr. Justice J.D. Jain, Vice-Chairman.

Hon'ble Mr. Birbal Nath, Administrative Member.

For the applicant:

Shri MN Krishnamani, ¶ counsel.
Shri KS Mahadevan ¶

For the respondents:

Mrs. Aynish Ahlawat, counsel.

JUDGMENT

(delivered by Mr. Justice J.D. Jain, VC).

This is an application under Section 19 of the Administrative Tribunals Act, 1985 praying for a declaration/direction that the applicant, who was employed as "Guidance Counsellor" in the Directorate of Education, Delhi Administration, was a teacher and, as such, he was entitled to the enhancement of age of superannuation at 60 years, and grant of higher pay in accordance with the orders issued by the respondents on 6th September, 1983 in respect of the Delhi School Teachers enhancing their age of retirement/superannuation to 60 years from 58 years.

2. The contention of the applicant, in brief, is that although the nomenclature of the post held by him was 'Guidance Counsellor' but the fact was that he belonged to one of the teaching categories as detailed by the Delhi

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Administration itself in respect of different non-ministerial and ministerial categories of employees consisting of teaching and non-teaching staff. He averred that he is M.A. (Psychology) B.Ed. with specialization in "Guidance" and his assignment was to teach the students and guide them in certain respects. However, in the letter dated 6th September, 1983 (Annexure I), the category of 'Guidance Counsellor' was not included for being given the benefit of enhanced age of superannuation while the categories of all teachers including Lab. Assistants, Librarians, Principals and Vice-Principals working in schools in Delhi were given the benefit of enhanced age for the purpose of superannuation.

3. The application was resisted by the respondents primarily on the ground that the applicant did not belong to the category of teachers and he was not declared as such by the Administration. So, according to the respondents, the applicant was not entitled to the benefit of enhanced age of superannuation, i.e. 60 years.

4. The learned counsel for the petitioner has now placed on record a copy of order dated 28th March, 1987 made by the Administrator, Union Territory of Delhi, to the effect that the State Council of Educational Research and Training, Delhi and its units..... hereafter shall be known as Institute/ Schools falling under the definition clause of section 2(u), Chapter I of the Delhi School Education Act, 1973, with effect from 20th March, 1980. Consequent upon falling this institute (SCERT) and the other units/branches under the definition clause of "Schools" of the aforesaid section, the revised nomenclature

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of these units shall hereafter be as under:-

Existing designation		Equivalent changed designation		Equivalent post.
xxx	xxx	xxx	xxx	
<u>School of Humanities Education</u>				
xxx	x	x	x	x
EVG Counsellor		P.G.T.		P.G.T.

5. The precise case of the petitioner is that formerly, he was working in the State Institute of Education which has now been re-designated as School of Humanities Education. Thus, according to the altered nomenclature, he is to be treated as a Post Graduate Teacher and, as such, he will be entitled to all the benefits to which a Post Graduate Teacher is entitled. If that be so, the benefits flowing from letter dated 6th September, 1983 (Annexure I) would automatically be available to him and he would be entitled to retirement at the age of 60 years instead of 58 years.

6. Consequently, we hold that by virtue of the order dated 28th March, 1987 made by the Lt. Governor, Delhi, which has retrospective operation, the applicant shall be deemed to be a school teacher within the meaning of letter dated 6th September, 1983 and, as such, he is entitled to retirement on superannuation at the age of 60 years and his premature retirement must be quashed. We order accordingly. We further direct that the applicant shall be entitled to all the consequential benefits flowing from his enhanced age of superannuation by way of salary, allowances etc.

7- The respondents shall comply with this order within two months of the receipt of this order. It is further clarified

that it shall be open to the applicant to report for duty
with a copy of this order forthwith.

There will, however, be no order as to costs.

✓ 25/11/82
(BIRBAL NATH)
Member (A)

J.D. Jain
(J.D. JAIN)
Vice-Chairman