

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

...

G.A. NO. 255 / 87

Date of decision: 6.2.1989

Shri Ganga Prasad

...

Applicant

Vs.

Director of Education,
Delhi & ors.

...

Respondents

For the applicant

...

Sh.
R.K. Gauba
Counsel

For the respondents

...

Smt Mrs Anish Ahlawat with
Sh. Mukul Talwar
Counsel

CORAM :

THE HON'BLE MR. B.N. JAYASIMHA, VICE CHAIRMAN (ADMN.)

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (JUDL.)

1. Whether reporters of local papers may be allowed to see the judgment? *Yes*
2. To be referred to the Reporter or not ? *Yes*

(Judgment of the Bench delivered by Hon'ble
Shri B.N. Jayasimha, Vice Chairman(A))

JUDGMENT

The applicant herein was a Principal, Government Boys Senior Secondary School, Kabli Gate, Delhi-6. He was conferred the State Award for the year 1985. According to the rules and policy of the Delhi Administration, he is entitled to two years extension in service.

2. The applicant says that his normal date of superannuation was 31st December, 1985 and that as a state awardee Principal, he was entitled to retire on 31-12-1987. The applicant was allowed to continue even after his normal date of retirement, i.e. 31.12.1985, until 18th July, 1986.

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By an order dated 18th July, 1986, he was informed that the applicant/^{who} was due to retire~~ment~~ from government service with effect from 31.12.1985 on attaining the age of super-annuation and had subsequently applied for grant of extension of service on account of being a state awardee will stand retired from government service with effect from 18th July, 1986. The applicant states that he was asked for medical check before the Medical Board wherein he was declared unfit. According to the applicant, he was entitled as per rules for a second medical opinion. On 15th April, 1986, ^{after} he was informed that he had been declared unfit, the applicant applied for referring him to a second medical opinion. However, the respondent no2 did not grant the requisite permission to the applicant due to bias and prejudice on extraneous considerations and thereafter, passed the order dated 18.7.1986 directing immediate retirement of the applicant from government service. It is this order * that is challenged by the applicant in this application.

3. In the counter filed by the respondents, it is stated that the applicant who retired as Principal on 31.12.1985 after the age of 60 years, applied for grant of extension in service from 1.1.1986 to 31.12.1986 for the first term as per Circular dated 8th July, 1985, he being a State Awardee. The State Awardee is eligible for extension upto two years as per instructions in the Circular dated 8th July, 1985 and this is subject to his being physically and mentally alert. The applicant was ~~examined~~ examined by the Medical Board of L.N.J.P. Hospital and the medical board declared him unfit for further service. Accordingly, the request for extension was rejected by the X-Lt. Governor of Delhi and the applicant was duly informed of the same vide letter dated 9th July, 1986. The respondents contend that a State Awardee may be granted

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extension of service on merit on year to year basis for a total period of two years subject to the condition that he/she is physically and mentally alert. They contend that there was no arbitrariness in the issue of the letter dated 9th July, 1986. There is also no rule which permits a second medical board. The respondents also deny the wild allegations against the Respondent No.2 of bias and prejudice on extraneous considerations in rejecting the case of the applicant for extension of service.

4. We have given careful consideration to the rival contentions and also heard the learned counsel for the applicant as well as the learned counsel for the respondents. The relevant Circular dated 8th July, 1985 stipulates that, "A teacher obtaining a state Award may be granted extension beyond the age of superannuation on year to year basis for a total period of two years subject to the condition that he/she was ^{physically} and mentally alert." The applicant was accordingly referred to the Medical Board and pending receipt of the report of the medical board, he was continued in service even after his normal date of retirement on superannuation, i.e. 31st December, 1985. It was only after the medical board declared him unfit, that the impugned order was issued. Having regard to the facts and circumstances of the ^{case} ~~case~~, we do not find that the impugned order is arbitrary or invalid.

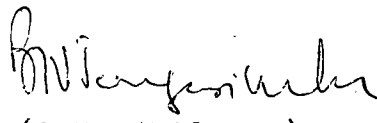
5. The applicant however, states that since he was continued upto 18.7.1986, his pensionary benefits should be given taking that date as basis. Learned Counsel for the applicant also states that consequent to giving effect to ~~of~~ the recommendations of the Fourt Pay Commission on revised pay scales, ^{W. c. f. 1.1.86.} ~~the~~ ^{has} the applicant should be given the same

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benefits since he was continued beyond 1-1-1986 and retired only on 18.7.1986. As the applicant was continued upto 18.7.1986, and retired from duty on that date, he will be entitled to the refixation of his pay in the revised pay-scales and on that basis, to the consequential pensionary benefits.

6. With the above directions, the application is disposed of. But in the circumstances of the case, there will be no order as to costs.


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


(B.N. JAYASIMHA)
VICE CHAIRMAN (A).

6.2.1989