

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.546/87

Date of decision: 10.09.1992.

Shri Paras Ram Ramesh

...Petitioner

Versus

Union of India through ... Respondents
the Secretary, Ministry of Defence,
New Delhi & Others.

Coram:-

The Hon'ble Mr. Justice Mr. V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the petitioner Shri B.R. Saini, Counsel.

Judgement(Oral)
Justice V.S. Malimath, Chairman)

The petitioner has challenged in this Original Application the order compulsorily retiring him from service dated 26.2.1987 (Annexure-A-1). When this matter was taken up yesterday, the petitioner took time to examine the question as to whether this relief can be claimed by him in these proceedings before the Tribunal for the reason that the petitioner is a civilian, working in the Defence Establishment whose emoluments are paid from the Defence Services esti-mates. There are two decisions of the Supreme Court reported in AIR 1989 SC 662 between **Union of India & Another Vs. K.S. Subramanian** and AIR 1973 SC 2641 between **Ramanatha Pillay Vs. State of Kerala** on the subject. The learned counsel had taken time till today to examine if a different view has been

taken by the Supreme Court in a subsequent decision.

Today the learned counsel fairly submitted that the question stands concluded against him by the judgement of the Supreme Court in the above two cases. The clear pronouncement of the Supreme Court is that the civilian workers in Defence Departments are not entitled to the protection of Article 311 (2) of the Constitution and that consequently the Central Civil Services (Classification Control and Appeal) Rules, 1965 are also not applicable. It has been held that such civilian employees in the Defence Service hold the post under the pleasure of the President as provided by Article 310 of the Constitution. The order of compulsory retirement passed by the President in this case against the petitioner on 26.2.1987 as per Annexure A-1 is, therefore, not amenable for interference either on the ground that the provisions of Article 311 (2) of the Constitution have not been complied with or on the ground that the provisions of the Central Civil Services (Classification Control and Appeal) Rules, 1965 have been violated. As the petitioner has assailed the order of compulsory retirement only on these grounds, this petition has to fail. As the petitioner is not entitled to the main relief in the case, question of granting any consequential benefit does not arise.

2. The learned counsel for the petitioner contended

✓ that appropriate order regarding the emoluments to be

paid to the petitioner from the year 1973 to 1981 and thereafter have not been properly made and, therefore, we should issue appropriate directions in this behalf. It was submitted that as during the pendency of these proceedings order has been passed in this behalf on 11.5.1987, he did not have any opportunity to question the correctness of the said order in these proceedings. Hence, we leave it to the petitioner to agitate the same in the appropriate proceedings in accordance with law. We would like to observe that the petitioner was bonafide agitating his rights in these proceedings. This may be taken into account as and when the petitioner seeks relief in this behalf as also in regard to retirement benefits.

3. With these observations this Application is dismissed. No costs.

Malimath
(I.K. Rasgotra)
Member(A)

Malimath
(V.S. Malimath)
Chairman

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