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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. O.A. 969/87.

DATE OF DECISION: 7.12.1992.

Krishan Lal.

Petitioner.

Versus

Government of India Press
and another.

Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

Shri B.S. Charya, Counsel.

For the Respondents.

Shri P.P. Khurana, Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner is a Foreman in the Government of India Press. He was told to retire on attaining the age of superannuation of 58 years. He has approached this Tribunal for relief on the ground that the age of superannuation so far as he is concerned is 60 years and not 58 years. Hence, we have to examine as to whether the petitioner is right in maintaining that the age of superannuation in respect of the Foreman in the Govt. of India Press is 60 years.

2. The statutory rule regulating the age of superannuation is F.R.56. Clause (a) is the general provision which prescribes 58 years as the age of superannuation. Clause(b) is an exception to the same and provides that a workman shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. Note to FR 56 (a) & (b) reads as follows:

"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".

Having regard to this statutory provision regulating the age of superannuation, it is obvious that the petitioner can claim the higher age of superannuation of 60 years only if he can establish that his case is governed by clause (b) of FR 56. He can claim ^{benefit} only by establishing:

- (i) that he is a highly skilled, skilled, semi-skilled or unskilled artisan;
- (ii) that he is employed on a monthly rate of pay;
- (iii) that his employment is ⁱⁿ an industrial or work-charged establishment.

3. The principal question for examination is as to whether the first condition is satisfied as to whether he is an artisan whether highly skilled, skilled, semi-skilled or unskilled. It is only if the petitioner is able to establish that he is an artisan, he would be entitled to claim the benefit of clause(b) if the other two conditions are also satisfied.

4. It is now well settled by the Tribunal in O.A. No. 883/1987 between H.S. Sokhi Vs. The Director General of Works, C.P.W.D. and Union of India that an artisan is one who is skilled in some kind of trade or craft requiring manual dexterity, such as carpenter, plumber, tailor and mechanic. When a person is discharging several duties and functions what has to be examined is the predominant nature of the duties which a particular person is required to discharge in order to decide as to whether he is an artisan. Hence, in order to make out a case that the petitioner is an artisan, he has to place material before the Tribunal to establish that the nature of duties and functions discharged by him are those which require manual dexterity.

5. The burden of establishing that the petitioner is an artisan lies on the petitioner. It is for him to place material in regard to the nature of duties and functions which he is required to discharge as a Foreman to enable the Tribunal to examine the same and to decide as to whether he is an artisan or not. On a careful reading of the petition, we do not find any material placed by the petitioner in this behalf. He has tried to say what he is not required to perform. He has gone to the length of saying that there are no instructions regarding definite types of duties which are required to be performed by the Foremen. All that he has been able to say is that all persons belonging to the category of workman get overtime at double the rate of normal wage and that the petitioner is also getting such overtime wages and that he is provided with the soap and towel etc. as is permitted to workers. He has further stated that he works from 8.00 A.M. to 4.30 P.M. whereas the Overseers are working from 9.30 A.M. to 5.00 P.M. He has not placed any material to show as to what duties and functions he is actually performing. Thus, the petitioner has failed to discharge the burden lay on him. The respondents, on the other hand, placed material in support of their case that the petitioner is not an artisan and that the duties and functions which he is discharging are ^{supervisory} predominantly in character. They have taken the stand that this aspect has been examined by an expert committee whose decision has been acted upon. They have also annexed as per Annexure II an extract from Hand Book of the Govt. of India Press (Sixth Edition) regarding Foreman. We shall extract the same for the sake of convenience:


"Foreman.- The Foreman should know thoroughly the rules of the office, disciplinary as well as technical. He should examine all requisitions of the work passed by Assistant Manager (Technical) or Overseer together with special instructions, if any, and allocate the work according to the pressure of work in the sections and their demands. He should give complete instructions to the Section Holders for expeditious and economical production and see that instructions of the overseer or Assistant Manager (Tech.) are strictly carried out by all sections. He should examine the register maintained by the sections and sign them in token of check periodically issuing instructions where necessary for pulling up arrears of work or execution of urgent and important jobs effecting co-ordination between sections under him. He should keep a register for jobs received and fix dates for execution and inform the overseer, Assistant Manager (Technical) in advance, if date cannot be adhered to in a particular case. In case of any complaint for delay and/or bad workmanship he is to determine and intimate the position, fix responsibility on the foreman responsible for delay and suggest means to expedite. The Foreman should be generally responsible for improving quality and production for implementing correct procedure in working and seeing that promised jobs are out in time. He should see that the Sections are provided with materials viz., Galleys, chases, metal, lead, rules, cases, types etc., according to the requirements. He shall ensure proper distribution of labour among the various sections according to the requirements of work".

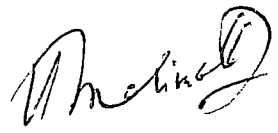
6. A bare perusal of the duties and functions of the Foreman extracted above makes it clear that the duties and functions of the Foreman are not those of an Artisan but are supervisory in character. Annexure III is the order dated the 2nd August, 1980 which speaks of the decision

that the incumbents of all categories which are categorised as "supervisory" and whose minimum of scale of pay is not less than Rs.380/- shall retire at 58 years. Learned counsel for the petitioner submitted that it applies only to those cases whose minimum of scale of pay is not less than Rs.380/- per month. It is not possible to agree with this contention of the petitioner's counsel. There are two conditions prescribed by Annexure III referred to above, one is that the post must be supervisory and the second is that it should carry minimum scale of pay not less than Rs.380/- per month. It is, therefore, clear that the nature of the duties and functions performed are required to be examined to determine if they are supervisory in character. The names of the ten posts of supervisory categories made under the Categorisation Committee Report, 1973 have been stated. The position of Foreman is at Serial No. 5 and that of Section Holder is at Serial No. 6. The respondents have taken the stand that an expert body like the Categorisation Committee had gone into all the aspects and recommended that the post of Foreman falls under the supervisory category. An expert opinion made objectively is not liable for interference particularly when it is not shown that it is in any way erroneous.

7. Another aspect of importance to be noticed is that the post of Section Holder which is an inferior post to that of Foreman, has been held by this Tribunal in O.A. No. 438/86 between **Roshan Singh Vs. Government of India Press** decided on 22.4.1988, to be supervisory in character and governed by the age of superannuation of 58 years. Special Leave Petition against the said decision having been dismissed by the Supreme Court, the said decision is binding on us. If a post inferior to that of the peti-

tioner in the same Organisation is held to be a post supervisory in character, it does not need much argument to convince us that a Foreman who is holding a post superior to that of the Section Holder must likewise be regarded as holder of a post supervisory in character. We have no hesitation in holding that a Foreman working in the Govt. of India Press is not a workman within the meaning of FR 56(b). Hence, he is not entitled to the higher superannuation age of 60 years. Forman is governed by FR 56(a) and, therefore, he is liable to be retired at the age of 58 years. We, therefore, see no ground to interfere. The petition fails and is, therefore, dismissed. No costs.

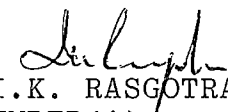

(I.K. RASGOTRA)
MEMBER(A)



(V.S. MALIMATH)
CHAIRMAN

7.12.1992.

MP 3852/92.

This, M.P. does not survive in view of the disposal of the petition, as above.


(I.K. RASGOTRA)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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