

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.1702/90

New Delhi, This the 14th Day of November 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Dr. K.D.Srivastava
Scientist 'C' DIPR
Defence Research & Development
Organisation, Ministry of
Defence, New Delhi.

...Applicant

service of all notices to the applicant
on the counsel's following address:

Shri R Venkataramani & Shri S.M.Garg
Advocates, 14A/13 W.E.A
Karol Bagh
New Delhi-110 005.

By None

Versus

1. Union of India through the Secretary
Ministry of Defence, South Block
New Delhi.
2. The Scientific Adviser to the
Minister of Defence and Director
General, Research and Development
Organisation, Ministry of Defence
South Block, New Delhi.

...Respondents

By Shri Madhav Panikar, Advocate

O R D E R (Gral)

Hon'ble Shri Justice S.C.Mathur, Chairman

The case has been taken up on second call.

No one has appeared for the applicant. On behalf
of the respondents Shri Madhav Panikar is present.

We proceed to decide the case on the records
available and the submissions made.

2. The dispute in the application relates to
the applicant's age of superannuation. Admittedly
prior to 24.12.85 the age of superannuation was

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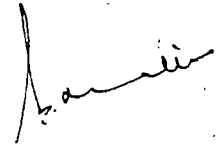
58 years. On 24.12.85 an office memorandum was issued which enhanced the age of superannuation to 60 years in respect of certain category of employees. The applicant did not fall in the category of employees to whom the benefit of higher age of retirement was available. He accordingly approached this Tribunal claiming that the clause which allowed the benefit of the higher age of retirement to only certain class of persons was invalid and that the benefit of higher age of retirement was available to him also. In support of his claim he placed on record the judgement of Division Bench of the Tribunal in TA No.521/86 Shri B P Gupta Vs Union of India and others decided on 15.12.1989 at the New Bombay Bench.

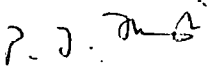
3. It appears that a similar view had been taken by the Bangalore Bench of this Tribunal in OA No.297/1991. Against the judgement of the Bangalore Bench SLP 5631/52-92 appears to have been filed before Their Lordships of Hon'ble Supreme Court and the operation of the judgement has been stayed by Hon'ble Supreme Court. This appears from the observation made in the judgement dated 19.3.94 rendered in the case of B.P.Gupta Vs. Union of India and others at the Gwalior Circuit Sitting of the Jabalpur Bench in Registration O.A.622/93.

4. In view of the fact that the matter was still engaging the attention of Their Lordships of the Hon'ble Supreme Court the Division Bench at Gwalior Circuit Sitting dismissed the OA reserving liberty to the applicant to agitate

the matter after the controversy had been settled by the Judgement of Hon'ble Supreme Court. The same view was taken by a Division Bench at the Principal Bench, New Delhi in Ms. Shanta Gautam Vs Union of India decided on 30.8.93. We are of the opinion that this application should also have the same fate.

5. In view of the above we dismiss the application but reserve right to the applicant to file fresh CA if Their Lordships of Hon'ble Supreme Court uphold the view taken by the New Bombay Bench and Bangalore Bench. There shall be no order as to costs. Interim order, if any operating, shall stand discharged.




(P.T. THIRUVENGADAM)
Member(A)
14-11-94

(S.C. MATHUR)
Chairman
14-11-94

LCP