

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2208/1990

New Delhi, this 1st day of October, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)  
Hon'ble Shri K. Ramamoorthy, Member(A)

Shri Hans Raj  
s/o Shri Matwal Chand  
23, Shivaji Nagar  
Agra Cantt. .. Applicant

(By Shri M.S. Dahiya, Advocate-not present)

vs.

Union of India, through

1. Secretary  
Ministry of Defence  
New Delhi
2. Director General, EME  
MGO's Branch, Army Hqrs. New Delhi
3. The Commandant  
509, Army Base Workshop, Agra Cantt.. Respondents

(By Shri M.K. Gupta, Advocate)

ORDER(oral)

Shri A.V. Haridasan, VC(J)

The short question that is for consideration in this case is whether the applicant, who commenced his career as skilled workman and thereafer was promoted to the post of Chargeman, which is a Group C post, is entitled to the benefit of provisions of FR 56(B) to continue in service till the age of 60 years or he should be retired at the age of 58 years. Since neither the applicant nor his counsel is present, we did not have the benefit of hearing them. On the last date of hearing also, neither the applicant nor his counsel was present.

2. The brief facts of the case are that the applicant who commenced his service as Tradesman, is holding the post of Chargeman in the scale of Rs.1400-2300, which is un-

Group C. He is assailing the action of the respondents to retire him at the age of 58 years on the basis of administrative order. The applicant's claim is that though he is promoted as Chargeman, he is still a skilled artisan and therefore he is entitled to protection under FR 56(B).

3. The respondents in their reply contend that the applicant who has been promoted to the post of Chargeman is not entitled to the protection of provisions of FR 56(B). The claim of similarly situated employee for continuance till 60 years was turned down by the New Bombay Bench of the Tribunal in TA No.336/96 and against the decision of the Principal Bench in Har Bhagwan Madan etc. Vs. UOI allowing the claim of chargeman for eligibility to continue upto 60 years the Supreme Court had admitted SLP and granted a stay of operation of the judgement, contend the respondents. Thus according to the respondents this OA is devoid of merits.

4. We have heard the learned counsel for the respondents and perused the pleadings and relevant material on record. The identical issue involved in this case in the same establishment came up for consideration before this Tribunal in OA 626/90, 220/90, 227/90 which were decided on 29.8.96. The contention of the respondents that after a skilled workman is promoted to a post in Group C, he would be retired at the age of 58 years and he is not entitled to continue in service till the age of 60 years was <sup>overruled</sup> adopted and these OAs were dismissed. This view was taken following the judgement of the Hon'ble Supreme in State of Orissa & Ors. Vs.

H.C. Mohanty & Ors. reported in 1995(2) 365 wherein the Hon'ble Supreme Court while considering the provision analogous to FR 56(B) i.e. Rule 71(a) Orissa State Service Rules and the note therein, held that government employees in class III service shall retire on completion of 58 years of age even though as a workman he was promoted and appointed to class III service or post.

5. The principle enunciated by the Hon'ble Supreme Court in the above said case is applicable to the facts of the present case and therefore we have no reason to take a different view. In the result, finding no merit in this application, the OA is dismissed, leaving the parties to bear their own costs.

  
(K. Ramamoorthy)  
Member(A)  
1.10.96

  
(A.V. Haridasan)  
Vice-Chairman (J)  
1.10.96

/gtv/