

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1180/
~~Case~~ No.

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DATE OF DECISION 5-6-91

<u>SHRI SAT PAL</u>	Petitioner
<u>SHRI A.K. BAJPAI</u>	Advocate for the Petitioner(s)
Versus	
<u>THE DIRECTOR (HORT.), C.P.W.D.,</u>	Respondent s
<u>NEW DELHI & ANOTHER</u>	Advocate for the Respondent(s)
<u>NONE</u>	

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✓ The Hon'ble Mr. D.K. CHAKRAVORTY, MEMBER (A)

The Hon'ble Mr. J.P. SHARMA, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? 4
2. To be referred to the Reporter or not ?
3. ~~Whether their Lordships wish to see the fair copy of the Judgement?~~
4. ~~Whether it needs to be circulated to other Benches of the Tribunal?~~

J.P. Sharma

(J.P. SHARMA)
 MEMBER (J)

D.K. Chakravorty 5/6/89
 (D.K. CHAKRAVORTY)
 MEMBER (A)

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.1180/1991

DATE OF DECISION 5.6.91

SHRI SAT PAL

.....APPLICANT

VS.

THE DIRECTOR (HORT.)

.....RESPONDENTS

G.P.W.D., NEW DELHI & ANOTHER

CORAM

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

.....SHRI A.K. BAJPAI

FOR THE RESPONDENTS

.....NONE

J U D G E M E N T

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant who was engaged as a Worker with the respondents filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order dated 6.12.1990 (Annexure-A) by which the applicant was intimated that he will be completing 60 years of age on

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15.5.1991 and so will attain superannuation on 31.5.1991 and will retire from the service. The applicant prays for the following reliefs :-

- (a) To direct the respondents not to retire on 15.5.1991.
- (b) Stay the operation of impugned order dated 6.12.1990.
- (c) Not to take any action against the applicant without taking prior permission from the appropriate authority.

2. The facts of the case are that the applicant alleged that his date of birth is 15.3.1936. The applicant was employed as Work Charge Mali w.e.f. 26.4.1955 and his service record was prepared by one Shri Om Krishan Malik, the then Section Officer (Hort.). The applicant has filed conciliation proceedings before the Labour Court ^{which} ~~and~~ are pending before the Assistant Labour Commissioner. The applicant has invoked Section 33 of the Industrial Dispute Act, 1937. In fact, the applicant made a representation to the respondent No.2 that his date of birth has been wrongly recorded as 15.5.1931 while in fact his date of birth is 15.5.1936. So the order of retiring him on the alleged date of

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superannuation, i.e. 31.5.1991 be withdrawn. The applicant has also filed the horoscope and an affidavit. The applicant has also filed the copy of the petition before the Assistant Labour Commissioner dated 1.4.1991 (Annexure-E).

3. We have heard the learned counsel at length and are of the opinion that the present application is not maintainable because of the following reasons.

4. Firstly, the applicant has not sought correction of his date of birth, but what he has prayed is a direction to the respondents not to retire him on 15.5.1991 and stay the operation of the impugned order dated 16.2.1990. Under Fundamental Rule-56, a Government servant is bound to retire on attaining the age of superannuation and in the case of the applicant, it is 60 years. His recorded date of birth in the service record is 15.5.1931 and so as per service records, he has reached superannuation on 15.5.1991. Unless he makes a specific prayer to the effect that his date of birth be corrected, the reliefs (a) & (b) prayed for at all cannot be considered in favour

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of the applicant. Regarding relief (c), it is totally vague and does not disclose actually what applicant claims from the appellate authority and from whom permission is to be taken as per the relief drafted in the present form.

5. Further we find that the matter is still pending with the Labour Court under Section 33 of the I.D. Act and in view of this fact also, the application cannot be entertained as the applicant is still pursuing his remedy elsewhere. The present application, therefore, is not maintainable and is dismissed in limina at the admission stage itself.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)

5/6/91

D. K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

5/6/91