

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.(1) OA 1253/1991 with Date of decision: 31.07.92.
MP Nos. 1911/91, 3097/91
3409/91, 3693/91, 4233/91,
270/92, 271/92 and 592/92.

(2) OA 1463/91

(3) OA 1464/91

(4) OA 214/92

(5) OA 1264/92

(1) OA 1253/91

Lt. Col(Mrs.) Tarsem Lata Mehta & Ors. ...Applicants

Vs.

U.O.I. through the Secretary, Min. of ...Respondents
Defence & Another

✓ (2) OA 1463/91

Maj. J.S. Sodhi ...Applicant

Vs.

U.O.I. through the Secretary, Min. of ...Respondents
Defence & Others

(3) OA 1464/91

Maj. Darshan Singh ...Applicant

Vs.

U.O.I. through the Secretary, Min. of ...Respondents
Defence & Others

(4) OA 214/92

Shri Randhir Singh ...Applicant

Vs.

U.O.I. through the Secretary, Min. of ...Respondents
Defence & Others

(5) OA 1264/92

Maj. K.L. Sharma ...Applicant

Vs.

Union of India through the Secretary, ...Respondents
Min. of Defence and Another

For the Applicants

...S/Shri D.C.
Vohra, Shanker
Raju, S.K.
Banaduri,
Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice Chairman(J))

We have gone through the records of the case carefully and have heard the contentions of both parties. The question raised in this batch of applications relates to the age of superannuation of the NCC Officers. All of them are aggrieved by the decision of the respondents to retire them on attaining the age of superannuation of 55 years and they contend that their correct age of superannuation is 58 years. As common questions of fact and law have been raised in these applications, it is proposed to deal with them in a common judgment.

2. At the outset, it may be stated that this Tribunal had considered the aforesaid question in its judgment dated 12.04.1991 in OA 1513/1990 and connected matter (Lt. Col. Komal Charan & Others Vs. U.O.I. through the Secretary, Ministry of Defence & Others). The Tribunal held in its judgment that the applicants would be entitled to the benefit of FR 56(a), according to which, every Government servant shall retire from service at the age of 58 years.

3. The Union of India filed SLP(C) No. 11385-86 of 1991 in the Supreme Court against the aforesaid judgment. The

Supreme Court granted SLP and Civil Appeal Nos. 2449-50 of 1992 was disposed of by judgment dated 14.05.1992. The Supreme Court set aside the aforesaid judgment of the Tribunal and held that the applicants must retire when they reach the age of 55 years.

4. After the Tribunal delivered its judgment on 12.04.1991 and before the Supreme Court delivered its judgment on 14.05.1992, the batch of applications before us had been filed. It may also be stated that in OA 1253/1991 filed by Mrs. Tarsem Lata Mehta and Shri S.S. Bhandari, the Tribunal had allowed impleadment of similarly situated persons as applicants. Stay orders have been passed in these applications except in OA 1264/1991 filed by Maj. K.L. Sharma which came up for hearing on 30.07.1992 along with other applications, mentioned above. The stay orders are to the effect that the respondents shall not give effect to the impugned orders passed by them retiring the applicants on attaining the age of 55 years. In the case of some of the applicants who had been impleaded, directions had also been issued that the applicant shall be allowed to join duty and continue in the same post and at the same place. In the case of some other applicants, the respondents were also directed not to dispossess the applicants from Govt. accommodation in their occupation.

5. On 25.10.1991 when the question of continuation of the stay order came up for consideration, the learned counsel for

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the respondents submitted that the operation of the judgment of the Tribunal dated 12.04.1991, mentioned above, had been stayed by the Supreme Court by passing an interim order. After hearing both parties, the Tribunal, however, continued the operation of the stay order with the further direction that the continuance of the applicants beyond the age of 55 years will be subject to the outcome of the present application or any final orders passed by the Supreme Court in the case pending before it.

6. The respondents have filed Misc. Applications praying for vacating the stay orders in view of the final orders passed by the Supreme Court on 14.05.1992, mentioned above. Lt. Col. S.S. Bhandari, applicant No.2 in OA 1253/1991 has also filed MP 2194/92 praying for taking on record some additional documents filed along with the Misc. Application and for giving a direction to the respondents to pay to the applicants their pay and allowances for the period of the stay against their superannuation at 55 years, for actual work done by them.

7. On careful perusal of this batch of applications, it will be clear that the applicants have relied upon the judgment of this Tribunal dated 12.04.1991 and have prayed for identical reliefs. After the final orders passed by the Supreme Court on 14.05.1992 setting aside the

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judgment of the Tribunal dated 12.04.1991, the applicants in these applications are not entitled to the relief sought by them. The learned counsel for the applicants in AP No. 2194/92, however, submitted that the case of the applicants is not based on the provisions of FR 56(a) and that they are seeking the relief in view of the provisions contained in Regulation 459 of the Civil Service. Regulations and as such, the judgment of the Supreme Court is not applicable to the case of the applicants. We are not impressed by these arguments as the applicants had filed these applications and obtained stay orders from the Tribunal on the basis that they are similarly situated. Nothing survives in these applications after the Supreme Court has given its authoritative decision on 14.05.1992 in the appeal filed by the Union of India against the judgment of the Tribunal dated 12.04.1991.

8. Accordingly, these applicants cannot be granted the reliefs prayed for by them except to the extent that the respondents shall release the pay and allowances to them from the date they attained the age of 55 years till 14.05.92 when the Supreme Court finally disposed of the appeal filed by the Union of India. ^Q We order and direct accordingly. ^Q The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. In respect of the applicants who have been in occupation of Govt. accommodation pursuant to the stay order of the Tribunal, we also direct that they shall not be dispossessed of the accommodation for a further period of four months from the date of this order.

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9. The interim orders passed in these applications except in OA 1264/1992 are hereby vacated.

10. All the above applications as well as the MPs filed thereunder are disposed of on the above lines.

There will be no order as to costs.

Let a copy of this order be placed in all the case files.

(B.N. DHOUNDIYAL)
MEMBER (A)
31.07.1992

(P.K. KARTHA)
VICE CHAIRMAN (J)
31.07.1992

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*The copy is
Authenticated
31/7/92*
(PURAN CHAND)
Court Officer
Central Administrative Tribunal
Principal Bench in Jammu House
Constitution Marg, New Delhi