

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A.No. 1520/91

Date of decision

5/8/92

SHRI J.P. SRIVASTAVA ... APPLICANT

v/s

UNION OF INDIA ... RESPONDENTS

CORAM:

Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

Hon'ble Mr. I.P. Gupta, Member (A)

For the Applicant ... Shri Umesh Mishra

For the Respondents ... Shri P.P. Khurana

1. Whether Reporters of local papers may be allowed to see the Judgement ?

✓ 2. To be referred to the Reporter or not ? Yes.

JUDGEMENT

Delivered by Hon'ble Mr. I.P. Gupta, Member (A) 7

In this application filed under Section 19 of the Administrative Tribunal Act, the applicant has requested for the relief for issue of directions to the respondents to give benefit of instructions dated 29.11.89 to the applicant and retire him only at the age of 60 i.e. on 31st July, 1993.

2. The Learned Counsel for the applicant contended that the Ministry of Human Resource Development issued letter dated 29th November, 1989 (Annexure A) which is reproduced below :-

No.A.36016/2/89-Estt. - In accordance with the recommendation of a group set up by the Department of Science, Technology to examine in detail the question of recognition of Archaeological Survey of India as Scientific and Technological Department, the Secretary,

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Department of Science and Technology has approved the Archaeological Survey of India as a Science and Technological Institution with effect from 1st May, 1989. Accordingly, the Government of India's decision (12) below rule 11 of the delegation of Financial Power Rules 1978 and the Government of India's decision (9) below rule 13 ibid, as applicable to all scientific and technical departments of the Government of India as communicated by the Ministry of Finance (Department of Expenditure) vide their O.M.No.F.1(26)-B.II (A)/87 dated 15.8.88 will be applicable to the Archaeological Survey of India also.

According to the aforesaid letter Archaeological Survey of India became ^a Science and Technological Institution from 1st May, 1989. According to the letter of 4th December, 1985 the age of superannuation of scientific and technical personnel (gazetted) of the Defence Research and Development Organization was enhanced from 58 to 60 and on the same analogy the applicants who were in the Archaeological Survey of India, which was declared as Science & Technological Institution from 1st May 1989 plead that they by order dated 28th November 1989/should also be allowed to continue in service till the age of 60.

3. The Learned Counsel for the respondents contended that mere declaration of a department as Science and Technological Institution will not by itself imply that the age of superannuation should be raised to 60. Even in the Department of Defence Research and Development Organization the scientific and technical personnel were

allowed to go upto the age of 60 after a conscious decision was taken and the posts were adjudged, the holders of which could continue upto the age of 60. Such a conscious decision has not yet been taken by the respondents in respect of the personnel in Archaeological Survey of India. By Order dated 29th November, 1989 delegation of financial powers was done consequent upon Archaeological Survey of India having been declared Science & Technical Institution. Since the instructions dated 29.11.89 did not stipulate that the age of retirement should be 60, the applicant was allowed to retire on attaining the normal age of superannuation i.e. 58. By an interim order dated 29.6.92 it was directed that the applicant should not be dispossessed from his residential quarter i.e. A-125, Pandara Road, New Delhi. This interim order has continued.

for

4. Analysing the facts and arguments in this case, we find that the order of the respondent dated 29th November, 1989 did not per se indicate any grant of benefit of enhancement of the age of superannuation. It did not confer any enforceable right in regard to the age of superannuation. Even in such of the Departments of Science & Technology as have the enhanced age of superannuation of 60, the matter has been considered separately and only after a conscious decision specific orders have issued for enhancing the age of retirement. The letters of Ministry of Defence dated dated 24th December 1985 and 10th February 1986 (Annexure A2 and Annexure A3) are indicative of this fact. Since the respondents have not yet taken a decision regarding the enhancement of the age of superannuation in the Archaeological Survey of India, the personnel would be governed by the existing rules and only the letter of

29th November 1989 cannot by itself be taken as an authority for assuming that in the Archaeological Survey of India the age of retirement of scientific and technical personnel has become 60 from 29.11.89. It is for the executive to decide as to what should be the superannuation date of the Government employees and not for the court to give a direction in such a matter.

5. In the context of the aforesaid facts the application is bereft of any merit and is dismissed with no order as to costs. The interim orders are vacated.

I.P. Gupta
Member (A) 5/892

Ram Pal Singh
Vice-Chairman (J)