

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A.No.2547/91

Dated: the 28th May, 1996.

HON'BLE MR. S.R.ADIGE, MEMBER (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Pritam Singh,
S/o Shri Tehal Singh,
working as ex-Laboratory Assistant,
Delhi Milk Scheme,
West Patel Nagar,
R/o 5/119,
Subhash Nagar,
New Delhi -110 011.Applicant.

By Advocate: Shri S.K.Sinha.

Versus

1. Union of India through
The Secretary,
Ministry of Agriculture & Cooperation,
(Deptt. of Agriculture),
Krishi Bhavan,
New Delhi -110 001

2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi - 110 008.Respondents.

By Advocate: Shri V.S.R.Krishna.

JUDGMENT

BY HON'BLE MR. S.R.ADIGE, MEMBER (A).

We have heard Shri S.K.Sinha for the
applicant and Shri V.S.R.Krishna for the
respondents. Shri Sinha's written arguments are
also taken on record.

2. The applicant who retired as a Lab.
Assistant in Delhi Milk Scheme on 30.11.90
upon reaching the age of superannuation i.e.
58 years claims that he should have been
allowed to continue in service upto 60 years
under FR 56(b), which is extracted below:

"56(b) A workman who is governed by
these rules shall retire from
service on the afternoon of

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the last date of the month in which he attains the age of sixty years.

NOTE:- In this clause, a work means a highly skilled, skilled, semi-skilled or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment.

3. For the application to succeed, the applicant has to establish that he is a Workman, i.e. a highly skilled, skilled, semi-skilled or unskilled artisan. The Chambers Dictionary defines an artisan as " a handicraftsman; a Mechanic;

4. The duties of a Lab. Assistant working in the CL are contained in DMS Office's order dated 3.3.83 (Annexure-I Coll.), and a plain reading of those duties makes it abundantly clear that none of them fit the description of duties performed by a handicraftsman or a Mechanic. The ruling in Beni Prasad Vs. UOI 1993(23) ATC 55 cited by Shri Sinha does not help the applicant in this case, in view of the categorical position outlined above.

5. In the rejoinder to the reply filed by the respondents to applicant's MA, it has been contended that in their reply in O.A.No. 1900/90 Jugal Kishore Vs. UOI, the respondents have averred that the post of Lab. Assistant in DMS held by that applicant is a Worker as defined under the ID Act. It was open to the present applicant to have taken this plea in the OA itself to enable

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respondents to file their reply to the same.

Taking this plea at the stage of the rejoinder to respondents' reply to an MA gives no opportunity to respondents to rebut the same. Furthermore OA No. 1900/90 is not before us and neither party have informed as whether the said OA has since been disposed of, and if so with what result.

6. In the written argument, it has firstly been contended that the applicant was appointed as a Skilled Operative (Rs. 110-131) and by Office order dated August, 1993 a fellow Skilled Operative one Shri Hari Singh was allowed to continue till 60 years. This argument does not help the applicant because in the written argument it has been admitted that after being appointed as a Skilled Operative (Rs. 110-131) he was promoted to the post of Lab. Asstt. (Rs. 110-200) from where he was retired on superannuation. The post of Lab. Asstt. was clearly separate and distinct from that of Skilled Operative, and no comparison between the two is therefore possible.

7. The second argument, that the quality Laboratory is covered under the Factories Act, also does not help the applicant because it does not necessarily follow that each and every employee in establishment covered under the Factories Act, is necessarily a Workman as defined under FR 56 B.

8. Similarly the third argument, that a copy of Certificate issued by the Chairman, dated

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4.11.69 describing the applicant as a Worker, does not help him because even if he is denied as a Worker, it does not necessarily follow that he is performing the duties of a Workman as laid down under FR 56B.

9. Respondents' counsel has stated that the applicant's case was squarely hit by Hon'ble Supreme Court's judgment in State of Orissa Vs. A.C. Mohanty-1995 (29) ATC 365. In his written argument, the applicant has sought to refute the contention but we are unable to accept his line of reasoning. We are of the view that the applicant's case is squarely covered by the judgment in Mohanty's case (Supra) which is declaratory in principle and no discriminatory treatment has been meted out to him which brings him within the scope and ambit of the case UOI Vs. K.T. Shastri-JT 1990 (1) SC 14 relied upon by the applicant.

10. The OA therefore warrants no interference. It is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

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