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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. ~~XXX~~ No. 4 of 1991 ^u Decided on: 26.1.96

Shri Ved PrakashApplicant(s)

(By Shri A.K. Sikri with Shri V.K. Rao Advocate)

Versus

Lt. Governor and OthersRespondent(s)

(By Shri Rajinder Pandita Advocate)
Shri Mangat Ram Sharma

CORAM:

THE HON'BLE SHRI Dr. R.K. Saxena, Member (J)

THE HON'BLE SHRI K. Muthukumar, Member (A)

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?

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(K. MUTHUKUMAR)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 4 of 1991

New Delhi this the 2nd day of January, 1996

HON'BLE DR. R.K. SAXENA, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Ved Prakash
S/O Shri Sohan Lal
R/O B-68, Dayanand Colony,
Lajpat Nagar,
New Delhi-110 024.Applicant

By Counsel Shri A.K. Sikri with Shri V.K. Rao.

VERSUS

1. Lt. Governor through
Chief Secretary,
Delhi Administration,
5, Sham Nath Marg,
Delhi-110 054.
2. The Secretary (Education),
Delhi Administration,
Old Secretariat,
Sham Nath Marg,
Delhi-110 054.
3. The Director of Education,
Delhi Administration,
Old Secretariat,
Sham Nath Marg,
Delhi-110 054.
4. II The Joint Director of Education,
Delhi Administration,
Old Secretariat,
Sham Nath Marg,
Delhi-110 054.

By Advocate Shri Rajinder Pandita.

Shri Mangat Ram Sharma, Intervenor in person.

ORDER

BY HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

The applicant was initially appointed as a Library Clerk. His designation was changed as a Librarian and his services were transferred to the State Institute of Education (hereinafter referred to as 'SIE') which

functioned as a part of department of Directorate of Education under the respondents. The SIE was not recognised as equivalent to the schools run by the Delhi Administration. During the course of employment at the SIE, the applicant was selected for higher grade of Rs.210-380 (revised scale Rs.1640-2900). The post held by the applicant was subsequently transferred to the State Council of Educational Research and Training (hereinafter referred to as 'SCERT'), an autonomous body. The applicant did not join the autonomous body but opted to remain as employee of the Directorate of Education. There was no equivalent post available in the Directorate of Education for the applicant at the time of the merger of the SIE with SCERT. The applicant was adjusted against the post of PGT (Library Science) so as to enable him to draw the salary. According to the respondents, the applicant for all practicable purposes had remained an employee of the Directorate of Education and, therefore, had to be governed by the service rules applicable to the said department. Accordingly, the applicant retired from the department vide impugned order dated 31.12.1990. The applicant has filed this application against the aforesaid order, as according to him, he is entitled to be retired at the age of 60 years because he, as a Librarian, is entitled to all the privileges and facilities available to the teachers, who retire at the age of 60, as per the extant orders. He has,

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therefore, prayed that the order of premature retirement dated 31.12.1990 be quashed and he may be allowed to work as a Post Graduate Teacher (Library Science) with all the benefits of pay and allowances etc.

2. On 2nd of January, 1991, an interim direction was issued to the respondents that the respondents shall not retire the applicant from the post of Librarian (PGT) and the payment of salary was also ordered to be released for the months of January to March, 1991, which was withheld earlier subject to the outcome of the case. The interim order already passed was continued till further orders by the order dated 25.7.1992. One intervenor Mangat Ram Sharma was also allowed to file his written submission with copy to the opposite parties and accordingly, the written submissions had already been taken on record. When the matter came up for hearing on 2.1.1995, none was present on behalf of the applicant. It was noticed by the Bench that by virtue of the interim direction issued to the respondents, the applicant must have completed 60 years of age and, therefore, the application was dismissed in default and the relief prayed for by the applicant was also disallowed for the non-prosecution of the case and the interim order passed was ordered to be subject to this direction.

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3. Aggrieved by this, the applicant moved a Miscellaneous Application No.246 of 1995 for the restoration of the case and the M.A. was allowed by the order dated 18.4.1995 and the O.A. was restored to its original number. The matter came up for final disposal thereafter.

4. The applicant has urged the following grounds:-

(i) The age of retirement fixed for school teachers and Librarians are 60 years and he as a Librarian has been continuously working and transferred to various schools/institutes at various stages and he has been performing teaching jobs at various places and as the Librarians are to be given the same treatment as school teachers for all purposes, he should also have been retired at the age of 60 and not at the age of 58.

(ii) In accordance with the order dated 18.8.1986 issued by the respondent No.3, the status of the Librarians shall be on par with other teachers in the matters of pay scale and other facilities admissible to the school teachers and these rules are applicable to all Librarians working in all the Government schools including the Directorate of Education, Delhi Administration and accordingly, the retirement age of the applicant was 60 years. Therefore, the order of

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premature retirement with effect from 31.12.1990
was illegal and violative of Articles 14 and 16 of
the Constitution.

5. The respondents have strongly
contested the claims of the applicant. They have
averred that the applicant on passing the
certificate course in Library Science from Aligarh
Muslim University was posted as a Trained
Librarian. He was promoted and was given a senior
scale with effect from 1.4.1964 and as the post of
Librarian was transferrable, he was posted to
various schools. In the year 1966, a new post in
the grade of Rs.210-380 was sanctioned in the SIE
and in the meanwhile, the applicant having
acquired higher qualification of Master in Library
Science from Banaras Hindu University was
transferred to the SIE in his own grade against
the newly sanctioned post. Subsequently in the
SIE he was also promoted to the grade of
Rs.210-380. He had already been confirmed as
Librarian in the grade of Rs.150-320 with effect
from 1.4.1964. On 27.5.1988, SCERT was registered
and given an autonomous status and entire work
relating to SIE was transferred to SCERT. The
applicant was not willing to go to the SCERT and,
therefore, he was continued in the Directorate of
Education and as there was no post available in
the Directorate of Education in the same pay scale
as on the merger of the SIE with SCERT, the
applicant was adjusted for purposes of pay against
the post of PGT (Library Science) so as to enable

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him to draw salary. The respondents contend that for all practical purposes, the applicant remained an employee of the Directorate of Education and, therefore, was to be governed by the service rules applicable to the said department and, therefore, he was rightly retired at the age of 58 years by the impugned order dated 31.12.1990.

6. The respondents further content that the Government orders cited by the applicant giving the status of teachers and serving teachers as Librarians was withdrawn and cancelled. The respondents further contend that the Government of India orders dated 6.9.1983 (Annexure 2) to the petition, enhancing the age of retirement is applicable to teachers including primary school teachers, Lab. Assistants, Librarians, Principals and Vice-Principals working in the schools but is not applicable to the Librarians working in the SIE and, therefore, the benefit of the age of 60 years would not be available to the applicant. In the light of this, the respondents have averred that the applicant has no right to the relief claimed by him.

7. The respondents' main contention is after his transfer to the SIE and his having accepted the higher post of Librarian, which is not transferable, he has ceased to be a school Librarian and after the merger of the post with SCERT, at the instance of the applicant and to avoid his reversion, the applicant was adjusted in

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PGT-Librarians scale for purposes of drawing same pay scale at the time of merger of this post in the SCERT, therefore, the respondents contend that the applicant will have no claim at all to be treated on par with school Librarians, who are in the lower scale and who have the retirement age of 60.

8. We have heard the learned counsel for the parties and have perused the records. We have also perused the written submission of the intervenor.

9. The applicant has drawn our attention to the Directorate of Education letter dated 18.8.1986 containing instructions issued under Article 42 of the Delhi Schools Education Act, 1973 and Delhi School Education Rules, 1973 - regarding maintenance and use of school Libraries. It is mentioned in the aforesaid instructions that the status of School Librarian shall be the same at par with the other teachers in the matter of status, pay scales and other facilities admissible to teachers. These rules shall also be applicable to Librarians working in the Patrachar Vidyala, State Institute of Education, Science Branch/Centres & T.V. Centre. By the respondents order dated 21.5.1991 annexed as Annexure A-6 to the additional affidavits filed by the intervenor, the aforesaid letter dated 18.8.1986 has been cancelled by the respondents. The applicant has then referred to the Notification dated 28.3.1987.

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In the aforesaid order, it has been stated that consequent upon the SCERT falling under the definition of clause of schools as per the definition clauses of Section 2(u) of the Delhi School Education Act, 1973, the revised nomenclature of units alongwith certain posts specified therein are given. However, as brought on record by the respondents, the entire Notification had been cancelled by the second order dated 25/26-4-1988 (Annexure to the counter-reply) and, therefore, the averments made by the applicant in this regard are not substantiated. On the contrary, the concerned Notification have been cancelled by the respondents.

10. The applicant has nothing to show on this cancellation of these orders cited by him in his rejoinder. The applicant has also referred to the Government of India O.M. dated 6.9.1993 by which the retirement age of the teachers including Primary School Teachers, Lab. Assistants, Librarians, Vice-Principals and Principals working in the schools was made as 60 years with effect from 2.9.1983. We find that while this order is applicable to the Librarians and others working in schools, the contention of the respondents that this order is not applicable in the case of a Librarian in the SIE in which post the applicant was allowed to continue, is a valid contention. The applicant has no answer to this in the rejoinder also. The fact that he was fully

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qualified to be a PGT (Library Science) is not material here as he was all along functioning in the post of Librarian in the SIE, which was not considered as a school. The contention that he has been discharging the duties of PGT (Library Science) and holding lien on the post of Librarian in the pay scale of Rs.150-230 (revised to Rs.1400-2600) and, therefore, post in the SIE falls within the purview of schools, is not valid at all. From the facts of the case, it is clear that the applicant was in the post of Librarian in the SIE and after the functions of SIE were taken over by the SCERT, the applicant was allowed to continue in the Directorate of Education as Librarian and was not reverted to the post of Librarian in the School but was accommodated for the purpose of pay in the post of PGT (Library Science). Thus, the applicant has not been able to show how he is entitled to be retired at the age of 60 years.

11. In the conspectus of the above discussion, there is no case for the Tribunal to interfere with the impugned orders of the respondents retiring the applicant on his attaining the age of 58 years. In the light of this, the application has no merit and deserves to be dismissed. However, in compliance of the interim order, we note that the applicant had been allowed till the age of 60 and must have retired thereafter. Therefore, the application has now become infructuous and is disposed of accordingly.

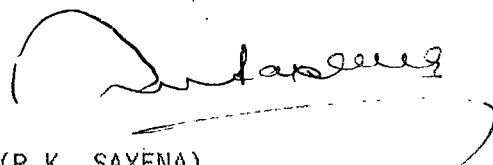
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No order as to costs.



(K. MUTHUKUMAR)
MEMBER (A)



(R.K. SAXENA)
MEMBER (J)

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