

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(25)

OA No.669 of 1991

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DATE OF DECISION 22.7.92

Dr. Vidya Bhushan - Applicant
(In person)

Versus

U.O.I. & Ors. - Respondents

For the Applicant - In person

For the Respondents - Mrs. Raj Kumari Chopra, counsel

CORAM

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

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

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

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

1. In this application the applicant, who is a Physicist, Safdarjang Hospital has requested for the relief for staying the orders of the respondents regarding retirement of the applicant as a scientist at the superannuation age of 58 years and directing the respondents that as a scientist he should be allowed to continue up to 60 years.
2. The applicant drew our attention to the 4th Central Pay Commission Report where it was appreciated that the post of Physicist had become important and therefore, a higher pay scale was recommended. He also drew attention to Department of Health (Group 'A' Gazetted non-Medical Scientific and Technical Post) In-Situ Promotion Rules 1990 where the post of

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Physicist was shown as Non Medical Scientific and Technical Post under the D.G.H.S./Ministry of Health.

3. The contention of applicant was that Council of Scientific and Industrial Research and Central Council for Research in Ayurveda & Siddha had increased the superannuation age of scientific staff to 60. Further the Ministry of Defence had enhanced the age of superannuation of scientific and technical personnel of the Defence Research & Development Services to 60. As a scientist the applicant should therefore be allowed to continue up to the age of 60.

4. The applicant also quoted from Swamy's Compilation of FR SR(Annexure VIII) where it was mentioned that extension of service/re-employment could be justified only in very rare and exceptional circumstances. Even in such cases, 60 years of age should be the deadline for Non-Scientific/Non Technical Post and 62 years in the case of Scientific/Technical Personnel.

5. The counsel for the respondents argued that the applicant started agitating for enhancement of age of retirement on the eve of retirement on 31.5.91. The services of applicant are governed by FR 56(a) which reads as follows:-

Except as otherwise provided in this rule, every Government Servant shall retire from service on the afternoon of the last date of the month in which he attains the age of 58 years.

6. Therefore, the applicant has been rightly superannuated on 31st May 1991 at the age of 58 years. The request of the applicant is not consistent with any rules or orders, applicable to him.

7. While it is true that the 5th Pay Commission appreciated the importance of the post of Physicist and recommended higher pay scale there was no recommendation as such for increasing the age limit which could be relied upon by the applicant. Therefore, the extract of Pay Commission

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Report is not relevant. Similarly, Group 'A' Gazetted Non Medical Scientific & Technical Posts In-Situ Rules do not provide for retirement of Physicist at the age of 60 years.

Age

The applicant cannot claim the retirement as a Physicist in Safdarjang Hospital as 60 just on the ground that the Council of Scientific and Industrial Research or the Central Council for Research in Ayurveda & Siddha have enhanced the retirement of Scientific & Technical Personnel. The applicant is governed by the Rules applicable to him and not by the rules governing the aforesaid councils. Further, even the Ministry of Defence while approving enhancement of age for scientific and technical personnel mentioned in their order that the orders could not be applied to deputationists from Central or State Government Departments. The extract from Swamy's Compilation referred to by the applicant relates to criteria for considering extension or re-employment beyond the age of superannuation.

8. The applicant is governed by FR.56(a). His letter of appointment dated 11.7.1958 mentioned that other conditions of services will be governed by the relevant rules and orders in force from time to time. The applicant could not cite any rule which could come to his rescue. While it is true that it is a matter of policy decision for the Govt. in the best public interest to lay down the age of retirement of Scientists in high posts, the applicant could not produce any order applicable to Scientists in general in Govt. Departments or to the post of Physicists in particular in a Hospital where the age of retirement has been raised to 60, consequent upon such a decision.

9. In view of the above the application is dismissed with no order as to cost.

I. P. Gupta
(I.P. GUPTA) 22/7/92
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)