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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

Regn. No. O.A. 1404/1992.

DATE OF DECISION: 24-7-1992.

Pradhan Singh

....

Applicant.

V/s.

Union of India & Ors.

....

Respondents.

CORAM: Hon'ble Shri T.S. Oberoi, Member (J).
Hon'ble Shri P.C. Jain, Member (A).

Shri N. Rangathasamy, counsel for the Applicant.

Ms. Jasvinder Kaur, proxy counsel for Shri Jog Singh,
counsel for the Respondents.

JUDGMENT

(delivered by Hon'ble Shri P.C. Jain, Member)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who joined service as Work Mistry on 1-9-54 on purely temporary basis on the Work Charged Establishment of the Central Public Works Department and was redesignated as Work Assistant in 1962, is aggrieved by his retirement on superannuation on his attaining the age of 58 years. His case is that he is a worker, that he is on the Work Charged Establishment, and that he is entitled to continue in service until he attains the age of 60 years in accordance with F.R. 56(b). He has prayed for a declaration to the respondents to continue him in service till he attains the age of 60 years, i.e., till 30.6.1994.

2. The respondents have contested the O.A. by filing a reply, to which a rejoinder has also been filed by the applicant. In their reply, the respondents have admitted that the applicant is a workman, and that he can be retired compulsorily on attaining the age of 58 years. They have also admitted that the duties which the applicant performed as a Work Mistry and the duties on his re-designation as Work Assistant are not different, and in fact it is just renaming of the post. It is also admitted that the pay scales in Work Charged Establishment and Regular Establishment are almost the same. It is further stated that the category of Work

Assistant being on a regular establishment is not entitled to Overtime under the Minimum Wages Act, 1948 and the Industrial Disputes Act, 1947, but as a special case, Overtime is granted to the category of Work Assistants on regular establishment, as is given to the categories covered by Minimum Wages Act, with effect from 1-3-1982.

3. We have carefully perused the material on record and also heard the learned counsel for the parties.

4. F.R. 56(b) lays down as below: -

"(b) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

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

It will be seen from the above provision that a workman as defined therein is to be retired on superannuation on attaining the age of 60 years. Respondents have conceded in the counter that the applicant is a workman. There is also no dispute that he ^{is} paid on a monthly rate of pay. Normally, after admission by the respondents that the applicant is a workman, it should not be necessary to go into the question whether he is employed in an industrial/work-charged establishment or not. Service Book of the applicant, which was made available for our perusal, shows that the applicant was appointed as a Work Assistant in a regular (classified) establishment of CPWD with effect from 1-4-1962 vide Delhi Central Circle No. IV's No. Est. 21(G1)(RC)/ dated 22-6-63. The Service Book also shows that he was confirmed in that post subsequently. However, the question whether a Work Assistant transferred to a regular establishment is entitled to the benefit of retirement after attaining the age of 60 years came in for consideration before this Tribunal in the case of Shri Beni Prasad Vs. Union of India & Ors. in O.A. No.389/86 decided on 29.5.91 (SLJ 1991 (41) 355). In Beni Prasad's case

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(supra), it was held as below: -

" In conclusion we are of the view that the Work Assistants even after transfer to the regular establishment continue to remain part of the workcharged establishment. The job content of their duties also does not undergo such a change as to deprive them of the age of retirement which would be their entitlement under FR 56(b). They continue to remain artisans in the highly skilled grade-I and highly skilled grade-II although they are expected to discharge minor supervisory functions."

In view of the above conclusion, the applicant in Beni Prasad's case was declared to be entitled to retire on attaining the age of 60 years in accordance with F.R. 56(b).

5. The judgment in Beni Prasad's case was followed by a Bench of this Tribunal in the case of O.A. No.2597/90 decided on 8.5.1992 (K.P. PANDEY Vs. UNION OF INDIA & CRS.).

6. The case of the applicant is thus covered fully by the judgments in the above two cited cases. Learned proxy counsel for the respondents also submitted at the bar that the case of the applicant is a covered case. She, however, submitted that the respondents have filed a Special Leave Petition in the Supreme Court of India against the judgment in the case of Beni Prasad (supra). She further conceded that the aforesaid judgment has not been stayed by the Supreme Court.

7. In the light of the above discussion, this O.A. is allowed with the direction that the applicant is entitled to continue as Work Assistant till he attains the age of 60 years or until his services are dispensed with otherwise in accordance with law. As the applicant has already retired on attaining the age of 58 years on 30.6.1992, the respondents are directed to reinstate him in service forthwith with effect from 1-7-1992, but in any case not later than four weeks from

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the date of receipt of a copy of this judgment. The applicant shall be entitled to monetary benefits with effect from 1-7-1992. No costs.

Dec 24/7/92
(P.C. JAIN)
MEMBER(A)

Dec 24.7.92
(T.S. OBEROI)
MEMBER(J)