

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

OA 1223/93

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• New Delhi this the 19th day of March, 1999.

Hon'ble Shri S.R. Adige, Vice Chairman(A)  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

In the matter of

Shri H.L. Sharma  
S/O Sh.K.D. Sharma,  
R/O Block II/18(Type-III),  
Probna Road,  
Delhi.

...Applicant

(By Advocate Shri George Paracken )

Versus

1. The Chief Secretary,  
Delhi Administration,  
5, Alipur Road,  
Delhi.
2. The Director,  
Technical Education, Delhi  
Administration, Rouse Avenue,  
New Delhi
3. The Principal  
Aryabhatt Polytechnic  
G.T. Karnal Road,  
Azadpur, Delhi-110033
4. Ministry of Human Resource  
Development through Secretary,  
Department of Education,  
(Technical Wing),  
Shastri Bhawan, New Delhi.
5. Shri Ram Dass  
r/o 690, MIG Flats,  
West of Loni Road,  
Shahdara, Delhi-32.
6. Shri S.C. Mittal,  
555, School Block,  
Shakarpur, Delhi-110092

... Respondents

(By Advocate Shri Surat Singh with  
Shri Arun Bhardwaj )

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant was working as Physical Training  
Instructor(PTI) in the office of Respondent No.3 -The Principal  
Aryabhatt Polytechnic, G.T. Karnal Road, Azadpur, Delhi which he  
states is under the direct control of Respondent No.2 -The  
Director, Technical Education, Delhi Administration. He is  
aggrieved by the respondents denying him the benefits of

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implementation of the recommendations of the All India Council of Technical Education(AICTE) regarding the revision of his pay scales; age of superannuation which according to him should be 60 years instead of 58 years and other benefits. Hence he has filed this OA claiming that he should have been allowed to continue in service till he attains the age of 60 years i.e. upto 30.6.95 with consequential benefits and revision of pay and allowances as applicable to others who were juniors to him and transferred to the Education Department in the letter dated 28.11.78(Annexure-II).

2. Applicant had made a representation to the respondents regarding his grievances on 13.4.93(Annexure-III). This O.A. has been filed on 1.6.1993 and notice was issued to the respondents on 4.6.93 calling upon them to file their reply to the O.A. On 12.8.93, Shri Vinay Sabharwal, learned counsel for the respondents had appeared and sought four weeks to file their reply. Thereafter a number of adjournments have been granted to enable them to file reply. However, the respondents have not filed any reply. Shri Surat Singh, learned counsel with Shri Arun Bhardwaj, learned counsel have appeared and have submitted the para-wise comments they have received from the respondents and have also handed over a copy of the same to the counsel for the applicant(Copy placed on record).

3. Shri George Paracken, learned counsel for the applicant has submitted that the respondents have prepared a common seniority list of Sr.PTIs, PTI(College of Pharmacy) and other participating organisations as on 1.1.1973 in which the applicant's name is placed at Sl.No.5(Annexure II). He has submitted that one person Sh.L.P.Sharma at Sl.No.3 and persons placed at Sl.Nos.6-9 who were juniors to the applicant have been transferred to the Directorate of Education as seen from the enclosure of the letter dated 28.11.78 in the seniority list of PTIs, PTI as on 1.1.1973. His contention is that the

respondents have transferred these persons including juniors to the applicant without any reasonable criteria and on a pick and choose basis. His submission is that those who have been transferred to the Directorate of Education got 2 years extra service as they superannuate at the age of 60 years, whereas the applicant who is working as PTI <sup>a/s</sup> in Polytechnic is required to superannuate at the age of 58 years. Learned counsel has, therefore, vehemently submitted that this is discriminatory action against the applicant taken by the respondents. He has also submitted that as PTI the applicant is also engaged as a teacher.

4. The respondents in their comments have submitted that owing to closure of some technical higher secondary schools their staff was adjusted either in Govt. Schools or in Polytechnics or in technical education department and the service conditions are applicable to them as available in these respective departments. According to them, the service conditions at the time of absorption of the surplus staff members were identical and it was only later that the age in schools was enhanced to 60 years but continued to be 58 years with regard to Polytechnic staff. They have also submitted that the Govt. of India had not agreed for enhancement of age of staff in Polytechnic to 60 years. They have also submitted that the benefits given to school teachers and PTIs cannot be automatically made applicable to Polytechnic staff as their service conditions, cadre etc. are separate. Learned counsel have also submitted that the applicant does not belong to a part of teaching staff and the recommendations of AICTE was only applicable to the teaching staff.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. Applicant has relied on the enclosure to the letter dated 28.11.78 in the final seniority list of Sr.PTIs, PTI as on 1.1.1973. (Annexure-II). In Column 11 of this list it is

seen that persons mentioned at Sl.Nos.3 and 6-9 have been transferred to Directorate of Education, which the applicant claims in this OA has been arbitrary as he is not getting the same benefits as those have been transferred to that Directorate. These transfers of the concerned persons must have been prior to 1973 or atleast November, 1978. It appears that the applicant has raised the validity of the transfers as he has been left out, in this OA which has been filed after more than 15-20 years. If the applicant had any grievances as to how he has been left out of the transfer to Directorate of Education, he should have raised this matter well in time which he has failed to do so. On this ground alone this application is liable to be dismissed as it is hopelessly time barred. The other ground taken by the learned counsel for the applicant is that the recommendations of AICTE regarding service conditions should also be made applicable to teachers of Polytechnic where he is working. The applicant has not placed any document on record to show that the service conditions of these cadres are even similar and we, therefore, see no reason to set aside the decision of the Government in this matter. The applicant was superannuated on 30.6.93 according to the terms and conditions of his appointment as PTI. In the facts and circumstances of the case, we see no good ground to continue the applicant in service upto the age of 60 years.

7. In the result, we find no merit in this application. The same is accordingly dismissed. No costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice Chairman (A)

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