

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

(2)

O.A. No. 2164/93

New Delhi this the 19th Day of October, 1993.

The Hon'ble Mr. N. V. Krishnan, Vice Chairman(A)
The Hon'ble Mr. B. S. Hegde, Member(J)

Jagdev Mohan Sharma
son of late Sh. Amar Nath
R/o 1/20, Vishwas Nagar,
Delhi-110032

.... Applicant

(By Advocate Sh. S. K. Shukla)

Versus

1. Union of India through the Secretary
to Govt. of India Ministry of Human
Resources Development (Dept. of Education),
Nirman Bhawan, New Delhi.

2. National Capital Territory Govt. of Delhi
through its Chief Secretary 5, Sham Nath Marg,
Delhi-110054

3. The Director of Education NCT Govt. of Delhi
Old Secretariat, Delhi-110054

(None for the respondents)

.... Respondents

JUDGEMENT (ORAL)

(delivered by Sh. N. V. Krishnan, V.C. (A))

Applicant has filed amended O.A. as directed by us.

2. We have heard the learned counsel for the applicant. He states that in accordance with Rule 110 of the Delhi School Education Rules, 1973 the age of retirement is 62 years for State Awardee/National Awardee but he is being retired much before that day by the impugned Annexure A-7-order dated 7-10-1993.

3. The applicant has attained the age of 60 years on 15.1.93 and was to retire on 31.1.93 (Annexure-3). In order to consider his case for extension/ service as a awardee, he was

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sent for medical examination by the Education Department (Gazetted Officer Cell) of the Delhi Administration (Annexure-3) to the Medical Supdt., Lok Nayak Jai Prakash Hospital, New Delhi. The Chairman, Medical Board reported on 17.2.93 that he was unfit on account of uncontrolled Diabetes Mellitus.

4. On his representation his case was referred to the Chairman, Medical Board, Dr. Ram Manohar Lohia Hospital (Annexure A-4) for a second opinion.

5. The impugned annexure-A-7 order dated 7-10-93 passed by the Deputy Director Education, District East relieves the applicant from his office forthwith. That order reads as follows:-

"In pursuance of directions contained in A.O.(GOC-I) letter No. 2188/GOC-I dated 1-10-93, ~~in~~ consequent upon rejection of case regarding extension in service after having been declared medically unfit by the Medical Board of L.N.J.P. Hospital, New Delhi and Ram Manohar Hospital, N/Delhi Sh. Jagdev Mohan Sharma, Principal is hereby relieved of his duties forthwith. In this connection formal order of retirement already issued and conveyed to the officer concerned stating age of superannuation i.e. 31-1-93 by the GOC.I reference".

6. Aggrieved by this order this OA has been filed seeking the following reliefs:-

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(i) quashing the threatened action of the respondent No.3 in retiring the applicant on attaining the age of 60 years 10 months approx. thereby restraining the Respondents from retiring the applicant during the pendency of the present O.A.

(ii) directing the Respondents to treat the applicant herein as Teacher/Principal and to allow him to continue in service upto the age of sixty two years and directing the Respondents to allow him to retain in service upto the age of sixty two years and pay all back wages i.e. salary, allowances, after January, 1993".

7. We have heard the learned counsel. ~~He~~ contends that no medical examination is provided for in the rules and in any case. There is only an opinion of the Medical Board.

8. We have considered/any prima facie has been made out. We notice that under Sub rule 2 of rules 110, extracted in para 4(3) of the O.A. ~~that~~ the services of a National and or State Awardee may be extended by such period as the Administrator may, by general or special order specify in this behalf. In other words the extension is not automatic. ~~for~~ considering whether extension should be given, the teacher can be subjected to a medical examination, necessarily ~~to~~ ^{be} subject to medical fitness. Therefore, the authorities cannot be faulted on this ground.

9. The applicant has not given any good ground why the authorities should not have acted on the adverse

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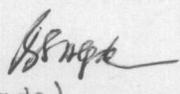
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medical reports from both the Lok Nayak Jai Prakash Hospital and the Dr. Ram Manohar Lohia Hospital. He has not impugned these reports.

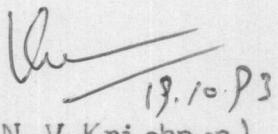
10. It is quite clear from the Annexure A-7 order that it has been passed on the basis of the direction of the Administrative Officer of the Gazetted Officer cell of the Education Department (Delhi Admn.)

11. As the applicant was found unfit medically as mentioned in Annexure A-7, further extension was not given to him and he was relieved forthwith. In the circumstances, we are of the view, that no prima case has been made out by the applicant for our interference.

12. We, therefore, dismiss this O.A. This will not stand in the way of the applicant seeking relief in respect of payment of salary upto the date of relief from the Competent Authority.


(B.S. Hegde)

Member (J)


19.10.83
(N.V. Krishnan)
Vice Chairman (A)

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