

21

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2329/93

NEW DELHI THIS THE 3RD DAY OF JANUARY, 1995.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

Shri Amir Singh
S/o Shri Nain Singh
R/o Village & P.O.Rithod
Tehsil Sohna
Distt.Gurgaon
Haryana

.... APPLICANT

BY ADVOCATE MRS.RANI CHHABRA.

Vs.

1. The Secretary,
Ministry of Education,
Govt.of India, New Delhi.
2. The Under Secretary
Deptt.of Youth Affairs and Sports
M/o Human Resources and Development
Govt.of India, Shastri Bhawan
New Delhi.
3. Director of Education
Delhi Administration
Old Secretariat, Delhi. RESPONDENTS

BY ADVOCATE SHRI VIJAY MEHTA.

ORDER(ORAL)

JUSTICE S.K.DHAON:

The applicant retired from service on 25.9.1976. He was employed as a Senior Instructor in the National Discipline Scheme. The principal grievance is that he should be given pension in accordance with the Office Memorandum dated 30.12.1980.

2. The request of the applicant for the grant of pension was rejected on 11.3.1993 by the Ministry of Human Resource Development, Department of Youth Affairs and Sports, Government of India. The reason given for the rejection was that the scheme which had been introduced through the Office Memorandum dated 30.12.1980 Government in relation to the temporary /employees was not applicable to those employees who had retired prior to 30.12.1980.

84

3. Indisputably, the applicant was, on or before the date of his retirement, a temporary employee and indisputably on 25.9.1976 when he retired from service, there was no provision for grant of pension to temporary Government servants. Admittedly, such a facility was given to temporary Government servants by means of the Office Memorandum dated 30.12.1980. This Memorandum clearly stipulates that the provisions of the same shall apply to those temporary Government servants who were in service on 30.12.1980 and who had completed 20 years of service.

4. The condition of 20 years of service was modified by a subsequent Office Memorandum and dated 14.4.1987 /the period of 20 years was reduced to 10 years. It appears to be an admitted position that on 25.9.1976, the applicant had completed 20 years of service. The question, therefore, which falls for determination is whether in view of the provisions as contained in para 5 of the scheme, the applicant was and is entitled to any pension. The contents of para 5 of the scheme, inter alia, provides that the Office ^{Memorandum} shall apply to those temporary Government servants who were in service on 30.12.1980.

5. The counsel for the applicant has urged that there is no rationale ~~nexus~~ for segregating those Government servants who were not in service on 30.12.1980 and those in service on that date. The argument further is that the classification, if any, is arbitrary and irrational and, therefore, hit by Articles 14 & 16 of the Constitution.

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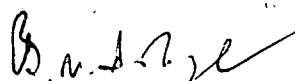
6. It has to be noted that this is a case where those who were temporary Government servants were not entitled to any pension at all. Therefore, this is not a case where a distinction is being drawn between two classes of pensioners. By the Office Memorandum dated 30.12.1980, a class of pensioners came into existence for the first time, namely those who retired on 31.12.1980. Article 14 is attracted only in those cases where the classification is either arbitrary or an attempt is made to put on par unequals as equals and vice-versa. We find no element of arbitrariness in fixing the cut-off date as 31.12.1980. Whenever a new scheme is introduced from a certain date that date obviously becomes the cut-off date and such a date necessarily need not be treated as artificial or arbitrary. Therefore, on the first principle, we record our finding that the contents of paragraph 5 of the scheme which provide that the contents of the Office Memorandum shall be applicable to those temporary Government servants who were in service on 30.12.1980 are perfectly valid and are not violative of either Article 14 or Article 16 of the Constitution.

7. A somewhat similar controversy came up for consideration before a Bench of this Tribunal presided over by Hon'ble Mr. Justice V.S. Malimath, the then Chairman in T.A.No.58/87 (Sh. Nobat Ram Vs. Union of India) decided on 17.2.1992. There, Shri Nobat Ram, on attaining the age of superannuation of 58 years, retired on 2.8.1974. On that date, there was no pension scheme but by subsequent orders of the Government of India dated 5.7.1982 and 14.4.1987 a scheme had been

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introduced. Reliance was placed by and on behalf of Shri Nobat Ram upon the case of D.S.Nakara Vs.Union of India((1983) 2 SCR 165). The Bench distinguished Nakara's case on the short ground that it did not relate to the question of eligibility for pension. The Bench also relied upon a decision of this Tribunal in OA No.252/88 given on 23.4.1990 between B.P.Mukherjee Vs.Union of India & ors. The Bench in Mukherjee's case took the view that the principle laid down in Nakara's case was not attracted on the ground that the two orders bear on the question of eligibility for pension and do not purport to classify the pensioners into two categories for the application of a liberalised formula for enhancing pension. Hon'ble Mr.Justice Malimath noted the fact that the decision in Mukherjee's case was taken up by means of a Special Leave Petition to the Supreme Court. The Special Leave was granted and the Supreme Court decided Civil Appeal No.5955/90 on 3.12.1990 affirming the decision of this Tribunal. Thus, there can be no getting away from the fact that we are fortified in our view by the aforesaid decision of the Supreme Court.

8. This OA has no substance. It is dismissed but without any order as to costs.


(B.N.DHOUNDIYAL)
MEMBER(A)

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(S.K.DHAON)
VICE-CHAIRMAN(J)