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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13TH DAY OF SEPTEMBER, 2000

Original Application No.463 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Chandan Singh, aged about 60 years
Son of Late Sri Gattu Ram, R/o 34/D-2,
Kutlupur, Idgah, Agra (U.P.)

... Applicant

(By Adv: Shri Rakesh verma)

Versus

1. Union of India through Secretary
Ministry of Telecommunication,
New Delhi.
2. The General Manager (Telephones)
Telecom, Agra (U.P.)

... Respondents

(By Adv: Shri Amit Sthalekar)

ORDER (Oral)

(By Hon.Mr.Justice R.R.K.Trivedi, V.C.)

Applicant Chandan Singh was serving as a group 'C' employee of Non-Statutory Canteen at Telecom Canteen, Agra. His grievance raised under this application u/s 19 of A.T.Act 1985, is against his retirement at the age of 58 years.

It is not disputed that in pursuance of the judgement of Hon'ble Supreme Court in case of D.K.Jha and Others Vs. Union of India and Others ^{and 8246-55} ~~Writ No. 6189-7044~~ the employees working in Departmental/co-operative canteen registered with the Director (Canteens), and located in Central Government offices have been declared as Govt. employees by order dated 29.1.1992 w.e.f. 1.10.1991. In consequence of the aforesaid order dated 29.1.1992 applicant became government employee and he was entitled to continue upto the age of 60 years. Shri Rakesh Verma, learned counsel for the applicant has placed before us the Government Order dated 5.6.1995 (Annexure A-1) which says that the age of retirement of all employees of Non-statutory canteens/Tiffin Rooms registered with the Director (Canteens), and located in Central Government Offices, recruited prior to 1.10.1991 is 60 years, and for the canteen employees

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recruited after 1.10.1991, the age of retirement would be 58 years in the case of group 'C' and 60 years in the case of Group 'D' employees (at par with retiring age of other Government employees of comparable status). Shri Verma has submitted that in view of the aforesaid clarification by the Government of India applicant was entitled to continue on the post upto 60 years.

Shri Amit Sthalekar, learned counsel for the respondents on the other hand, submitted that applicant retired on 30.1.1995 and he is not entitled for the benefit of the order dated 5.6.1995. For this submission reliance has been placed in judgement of Hon'ble Supreme Court in case of State of Punjab and another Vs. Manchar Lal Midhya 1996(5) SCC 154

we have considered the submissions of the learned counsel for the parties. There is no dispute about the facts. The only resistance from Shri Amit Sthalekar is that as retirement had already taken place applicant ^{did not} ~~and~~ not entitle for relief. We have seen the judgement of hon'ble Supreme Court in State of Punjab Vs. Manchar Lal Midhya (Supra). However, the ratio of the said judgement cannot be applied in the present case. In the case before Hon'ble Supreme Court the matter involved was on account of amendment in Rule 16 of Punjab Superior Judicial Service Rules. No amendment of any statutory Rule is involved in the present case. The order dated 5.6.1995 was issued only by way of clarification of the order dated 29.1.1992 under which all the employees of the Non-statutory canteens were accepted as Govt. employees. In our opinion, the applicant is entitled for relief.

The application is accordingly allowed. As the applicant had already retired, there is no question of reinstatement. However, he will be paid salary for the period of two years and pension shall also be recalculated accordingly. The amount payable under this order shall be ^{paid} ~~payable~~ to the applicant within six months from the date a copy of this order is filed before the Authorities. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 13.9.2000

Uv/