

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 690/1997

Allahabad: This the 28th day of May, 2004

HON'BLE MR. D.C. VERMA, VICE-CHAIRMAN
HON'BLE MR. D.R. TIWARI, MEMBER-A

Chintamani Mahapatra,
S/o Late Sri R.K. Mahapatra,
R/o 12, M.E.S. Compound, Allahabad.

..Applicant

By Advocate : ~~Smt~~⁵ M. Kushwaha

VERSUS

1. Union of India through the Secretary Ministry of Defence South Block, New Delhi.
 2. Engineering In-Charge, E-In-C's Branch Army Head Quarters AHQ, DHQ P.O. Kashmir House, New Delhi.
 3. E.E. Garrison Engineer (West) Military Engineering Services, Allahabad.
-Respondents.

By Advocate: Shri V.K. Pandey

O R D E R

By Hon'ble Mr. D.C. Verma, Vice-Chairman

By this O.A. applicant has prayed for following relief(s):

" That the proposed retirement of the applicant w.e.f. 31.7.97 be declared to be invalid and he should be prayed to continue in the employment of the respondents till he reaches the age of 60 years on 13.7.99 and which would mean that he could be retired only on 31.7.99."

...Pg 2/-

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2. The facts, in brief, are that the applicant was appointed in Military Engineering Services as Meter Reader, which is a civilian post in the defence department. The date of birth of the applicant is 13.7.1939, on its basis the applicant was served with notice of retirement on 31.7.1997 after completion of 58 years of service. The applicant made a representation, which was rejected. The applicant filed the present O.A. claiming the reliefs as mentioned above.

3. The short controversy is whether the applicant is a Industrial Worker or is a Non Industrial Worker. The age of retirement of Industrial Worker is 60 years whereas that of Non-Industrial Worker is 58 years.

4. The applicant has based his claim to be a Industrial Worker on an order dated 29.8.1984 by which upgradation was granted to several category of employees. The covering letter (Annexure-RA-2) dated 29.8.84 contains Appendix 'A' 'B' & 'C' ~~and that of~~ Appendix 'C' contains ^{names of} Meter Reader (HS Grade II). On the top of this covering letter, it is noted "GRANT UPGRADATION OF POST INDUSTRIAL PERSONNEL." However, in Appendix 'C', which contains the names of Meter Readers, who were granted the upgradation, there is no such mention, ~~in the Appendix 'A' & 'B'~~. The words "Industrial Personnel" is ~~only~~ mentioned only on the top of the covering letter. It is a select list of Meter Readers for grant of upgraded (H.S. Grade-II) scale of pay Rs.330-8-370-10-400-EB-10-480. This list contains the name of applicant and the designation is recorded as Meter Reader. The applicant based his claim to be a Industrial Personnel only on the basis of the heading given in the covering letter of 29.8.1984, ~~as has been mentioned earlier~~. The submission of counsel for the applicant is that by this

letter the applicant has been declared industrial worker and pay of applicant has also been fixed accordingly, hence applicant should be treated as Industrial Worker.

5. Submission on behalf of the respondents is that the M.E.S. (Establishment) comprises both Military and Civilian Personnel. The basic establishment contains various categories of the gazetted and non gazetted, Industrial and non Industrial personnels. Para 86 of the Regulation for Military Engineering Services, 1968 provides that Meter Readers are Non Industrial Workers. The submission is that the aforesaid regulation which has been amended from time to time upto 23.7.1996 has classified the Meter Reader as Non Industrial. It is also submitted that merely because of the covering letter dated 29.8.1984 in which "Industrial personnel" has been mentioned that would not give rise to any right to the applicant to claim benefits of industrial workers and that cannot change the category to which the applicant belongs.

6. Counsel for the parties have been heard at length. It is not disputed that applicant is holder of Civilian post in M.E.S. Establishment. It is not disputed that the post which the applicant has been holding as HSGrade II is group 'C' post. Para 86 of Section 6-~~one~~² establishment of the regulation for M.E.S. is as below:-

"86. Non-gazetted civilian personnel are further classified as:-

(a) Non-Industrial-Comprising the supervisory and non-workmen categories, such as superintendents, supervisors, draftsmen, storekeepers, clerks, MT drivers meter-readers, peons, chowkidars etc.

(b) Industrial- Comprising artisans and workmen such as masons, carpenters, blacksmiths, fitters, mazdoors etc. "

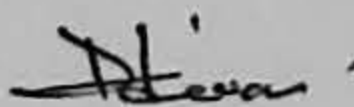
7. From the above para the Meter Readers are classified as non industrial personnels. Nothing has been brought

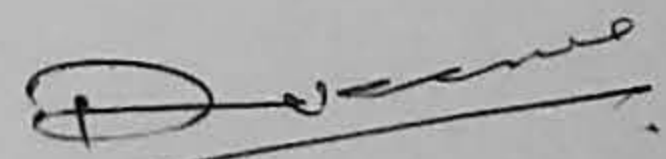
on record to show that this provision was subsequently amended at any stage to bring the Meter Readers in the Category of Industrial personnels. The submission of the applicant's counsel ~~that~~⁵ on the basis of letter dated 29.8.1984, the Meter Readers be taken to have been granted the status of Industrial personnels is totally misconceived. The provisions contained in the regulation cannot get amended ~~merely~~⁵ by such letters. The applicant holds Group 'C' post, which is a non-industrial category ~~and so~~⁵ the applicant is not entitled for any benefit of retirement as Industrial Worker.

8. It is not denied that Non Industrial Civilian Personnel's age of retirement was 58 years in July 1997, hence the applicant have been correctly retired on 31.7.1997 on completion of 58 years. The relief claimed that the applicant be treated as Industrial Worker and the age of superannuation be accordingly treated as 60 years, has no merit.

9. In view of the above discussion made, the D.A. has no merit and is dismissed, ~~positively~~⁵.

10. There will be no order as to costs.


Member-A


Vice-Chairman

Brijesh/-