

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00305/2021

HYDERABAD, this the 12th day of April, 2021

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



1. Smt. M. Priyadharsini,
D/o Sri R. Mayakrishnan, Aged 48 Years,
Occ: Associate Professor (Group 'A')
Faculty of Degree Engineering,
Military College of Electronics &
Mechanical Engineering (MCEME),
Secunderabad, Telangana State.
2. Susant Kumar Das,
S/o Sri Surendra Kumar Das, Aged 51 Years,
Occ: Asst. Professor,
Faculty of Degree Engineering,
MCEME, Secunderabad, Telangana State.
3. C.S.Kudarihal,
S/O Sri Sanningappa, Aged 54 Years,
Occ: Associate Professor,
Faculty of Degree Engineering
MCEME, Secunderabad, Telangana.
4. Professor [Dr] H N Suresh
S/O Sri H. Nanjappa, Aged 58 Years
Occ: Professor,
Faculty of Electrical & Mechanical Engineering
MCEME, Secunderabad, Telangana State Applicants

(By Advocate : Mr. KRKV Prasad)

Vs.

1. Union of India rep. by
The Secretary, Dept of Defence,
Ministry of Defence, Government of India,
New Delhi-11.
2. The Secretary,
Dept of Military Affairs, Ministry of Defence,
Government of India
New Delhi-11



3. The Director General of Electronics & Mechanical Engineering, MGO's Branch, Army Headquarters, DHQ PO, New Delhi-110 011
4. The Commandant
Military College of Electronics & Mechanical Engineering, Secunderabad, Telangana- 500 015
5. The Secretary,
Ministry of Education,
(Formerly Ministry of Human Resources Development),
Department of Higher Education,
Room No. 124, 'C' Wing, Shastri Bhavan,
New Delhi – 110 001.
6. The Member Secretary,
All India Council Technical Education [A.I.C.T.E.],
I G Sports Complex
I P Estate,
New Delhi-110 002
7. The Vice Chancellor
Jawaharlal Nehru University (JNU)
New Mehrauli Road, JNU Ring Road
Delhi – 110067
8. The Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
Government of India
North Block, New Delhi-110 001

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

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ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed seeking the following relief:



“..to call for the records pertaining to letter No. 3/3/2009/D(CIV.II) dated 10.11.2010 and set aside and quash Para 31 of the said letter, duly observing that the order dated 04.09.2009 passed in respect of Dr. U.C. Joshi is not applicable to the case of the applicants, and accordingly direct the 1st respondent Ministry to enhance the retirement age of superannuation of the applicants on par with the civilian Academician working in Defence Institute of Advanced Technology, Pune and grant all consequential benefits to the applicants...”

3. Brief facts of the case as narrated in the OA are that the applicants are working as Associate Professors/ Assistant Professor/ Professor in the Military College of Electronics & Mechanical Engineering, Secunderabad (MCEME), under 4th respondent herein, having been recruited through UPSC in 2002, 2006, 2002 and 2002 respectively. The 4th respondent Institute is affiliated to 7th respondent University for award of UG and PG Degrees in Technical Education. Under the 1st respondent Ministry there are 4 Academic institutions in the country viz., the 4th respondent Institute; Military College of Tele Communication Engineer, Mhow, MP; College of Military Engineering Pune & Naval Academy, Ezhimala, Kerala. Service conditions of the applicants are governed by the 6th respondent AICTE.

At the time when the applicants were recruited, the age of retirement was 60 years. Subsequently, the same was extended from 60 to 62 years to similar persons working in other technical institutions under the control of AICTE, but not to the academicians working in the Engineering institutions under the 1st respondent Ministry. Therefore, the applicants 3 & 4 herein

along with one C.R. Lakade filed WP No. 14112/2006 before the Hon'ble High court of Andhra Pradesh seeking enhancement of retirement age to 62 years. While the dismissing the writ petition on 04.10.2007, the Hon'ble Court observed that the respondents are not precluded from considering the case of the petitioners on par with similar teachers and granted liberty to the petitioners to submit representation, which shall be considered and disposed by the Defence Secretary.



The 5th respondent Ministry issued proceedings on 23.03.2007, enhancing the age of retirement from 62 to 65 for teaching positions in centrally funding institutions in higher and technical education. The 6th respondent AICTE also published a Gazette on 05.03.2010 under the power conferred under the All India Council for Technical Education Act, 1987 notifying revision of pay scales pursuant to VI CPC, etc. including the age of retirement as 65 years for teachers in Technical Institutions. But the 1st respondent Ministry, while extending the pay scales, denied the enhancement of retirement age to 65, vide impugned proceedings dt. 10.11.2010 on the ground that Civilian Professor Staff are governed by the Rules applicable to Defence Civilians in other Defence Establishments. Aggrieved, the OA is filed.

4. The contentions of the applicants are that when Mr. C.R. Lakade, who along with two of the applicants herein had earlier filed WP No. 14112/2006, was made to retire without extending the benefit enhanced retirement age of 65 years, he filed OA No. 630/2009 before this Tribunal. The said OA was dismissed on 04.01.2011 basing on the Order dt. 04.09.2009, without reference to proceedings dt. 2.07.2010. The order dt.

04.09.2009 was passed pursuant to the order of the Principal Bench of this Tribunal in OA No. 154/2009 filed by Dr. U.C. Joshi. Proceedings dt. 23.03.2007 issued by the Ministry of Education regarding the enhancement of retirement age to 65 is applicable to the 4th respondent Institute. They further contend that the proceedings dt. 02.07.2010, which were issued by the 1st respondent granting the benefit of enhanced retirement age of 65 years for academicians working in Defence Institute of Advanced Technology (DIAT), Pune, was not brought to the notice of this Tribunal while adjudicating the OA No. 630/2009. Hence, the judgment of this Tribunal in the said OA is distinguishable. The order dt. 04.09.2009 cannot be made applicable to the applicants herein in view of the subsequent proceedings dt. 02.07.2010 issued in respect of the DIAT, Pune and the VI CPC Pay Revision Rules published by the AICTE on 05.03.2010 and also the VII CPC AICTE Pay Rules published on 01.03.2019.

Further, the retirement age of 65 is being followed in all the academic institutions, functioning under the supervision of AICTE, but the same is not extended to the applicants working in the 4th respondent Institute. The applicants also cite the orders dt.13.10.2017 and 24.10.2017 whereby the retirement was enhanced to 65 in respect of Medical Doctors working under Department of Defence Production and Director General of Armed Force Medical Services, under the control of 1st respondent. They submitted representations dated 03.10.2020, 14.10.2020 and in response thereto, the 3rd applicant was replied on 06.11.2020 that issue is under consideration. Even the 4th respondent received email on 01.02.2021 and that the matter is under consideration. The contention of the applicants is



that differential treatment is adopted in respect of similarly placed academicians working under the same Ministry. The action of the respondents in not extending the benefit is discriminatory and violative of Articles 14, 16 &21 of the Constitution of India.



5. Heard both the counsel and perused the pleadings on record.

6(I) As seen from the above averments in the OA, the basis for dismissal of the OA No. 630/2009 on 04.01.2011 was an order dt. 04.09.2009. However, the proceedings dt. 02.07.2010, which were issued by the 1st respondent granting the benefit of enhanced retirement age of 65 years for academicians working in Defence Institute of Advanced Technology (DIAT), Pune, was not brought to the notice of this Tribunal while adjudicating the OA No. 630/2009. In view of the subsequent orders, the order dt. 04.09.2009 is not applicable to the applicants herein and thus, the judgment in the OA 630/2009 is distinguishable. The applicants also cited orders dt.13.10.2017 and 24.10.2017 whereby the retirement was enhanced to 65 in respect of Medical Doctors working under Department of Defence Production and Director General of Armed Force Medical Services, under the control of 1st respondent. The applicants submitted representations dated 03.10.2020, 14.10.2020 and they are under consideration by the respondents.

(II) In view of the pleadings in the OA and the representations of the applicants being pending consideration by the concerned authorities, we are of the view that this OA can be disposed, by directing the respondents to dispose of the representations of the applicants, by way of speaking and

reasoned order, within a period of 12 weeks from the date of receipt of this order in accordance with rules and law. The respondents are directed accordingly.

The OA is disposed of as at above, admission stage without going

into the merits of the case. No order as to costs.



(B.V.SUDHAKAR)

ADMINISTRATIVE MEMBER

(ASHISH KALIA)

JUDICIAL MEMBER

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