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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

T.A. No. 174 of 1987

Vijai M. Singh Applicant
Vs.
Union of India and Ors. Opp. parties

Hon'ble Mr. D.K. Agrawal, J.M.

Hon'ble Mr. K. Obayya, A.M.

(By Hon. Mr. D.K. Agrawal, J.M.)

Writ petition No. 15688 of 1985
instituted in Hon'ble High Court of Judicature
at Allahabad transferred to the Tribunal under
the Provisions of Administrative Tribunals Act
(13 of 1985) was registered as T.A. No. 174 of 1987
as indicated above.

The facts are that the petitioner was a
Non language teacher for High School Classes in
the Ordnance Clothing Factory College Shahjahanpur
run and managed by Ministry of Defence, Government
of India. The petitioner is already retired on
30.9.1985 on attaining the age of superannuation
i.e. 58 years of age. The Writ petition was
filed on 24.9.1985, just before the retirement.
By means of an interim order of the Hon'ble High
Court the petitioner continued to work as teacher
till 30.6.1986.

D.K. Agrawal

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The relief prayed for in the petition is that the teachers working in the Schools run by Ordnance Factory should be made to retire on completion of 60 years of age in accordance with a policy decision already taken by the Government of India to raise the age of the retirement of the teachers working in the Central Government schools from 58 years to 60 years. A reference has been made to the Notification dated 9.5.1984 whereby the Government of India took a decision to raise the age of retirement of the teachers working in the Central Government schools from 58 to 60 years. It is alleged that the Central Government departments have implemented the decision and the Railways also followed the suit but the Ministry of Defence has not yet raise the age of retirement from 58 to 60 years. This matter was the subject matter of litigation before the Supreme Court in the Case of "B.P. Singh and Others Vs. Director General, Ordnance Factory and Others (1991) 4 SCC 136: 1991 SCC(L&S) 1093. However, the Supreme Court on the basis of the Office Memorandum dated March 10th, 1989 issued by the Government of India, Ministry of Personnel, New Delhi did not subscribe to the plea raised by the teachers employed in the schools run by Ordnance Factory Kanpur and consequently dismissed the writ petition. The office Memorandum dated March 10th, 1989 reads as under:-

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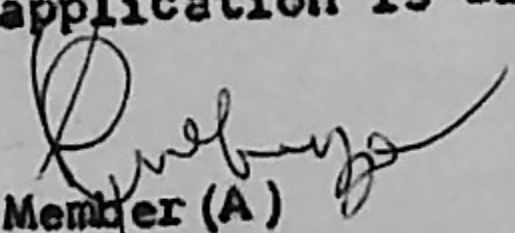
"The Government has reviewed the entire question denovo and it has now been decided that the age of retirement on superannuation of all teachers working in Central Government Departments and Organisations including Union Territories may be uniformly fixed at 58 years whether they are in the Ministry of Education, Ministry of Railways, Ministry of Defence or any other Ministry/Department or in Delhi Administration. Consequently, in schools/institutions where the age of retirement on superannuation for teachers is presently fixed at 58 years. However, in regard to school/institutions where the age of retirement on superannuation for teachers is presently fixed at 60 years, the same shall be lowered to 58 years w.e.f. 1st April, 1989 with the exception that the teachers who had joined such schools/institutions prior to this date, shall continue to enjoy the existing benefit and superannuation on attaining the age of 60 years. Further in respect of such schools/institutions, no new appointment, either on regular or adhoc basis, shall be made between the date of this office memorandum and 1.4.1989."

From the above it becomes evident that the age of retirement of teachers working under

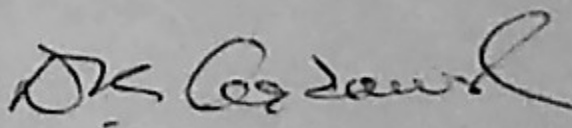
DK Aggarwal

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different department including Union territories has been uniformly fixed at 58 years w.e.f. 1st April, 1989. Consequently it cannot be held that the petitioner was liable to be retired at the age of 60 years under the orders of the Hon'ble High Court as referred above the petitioner has already been made to work for some time after attaining the age of superannuation. However, in a bunch of cases, leading O.A. No. 807 of 1986 Suraj Narain Lal Vs. Union of India and Others decided on 20th December, 1991, a Bench of this Tribunal has granted the benefit of superannuation on attaining the age of 60 years only for the purpose of pensionary and others retiral benefits. On the same ground we, hereby hold that the petitioner be entitled for pensionary benefits accordingly. The respondents are directed to give the benefit of 60 years of age for superannuation to the petitioner for the purpose of pensionary and others retiral benefits. The respondents are directed to reopen the pension cases of the petitioner and refix his pension adding 2 years service after the age of 58 years. The difference in amount of pension and other entitlement should be settled within a period of 3 months from the date of receipt of the copy of the order. The application is allowed as above. No order as to costs.


Member (A)

7th January, 1992


Member (J)