IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

1. O.A.NO. 867 of 1986

Suraj Narain Lal Vs. Union of India & Others

2. O.A.NO. 987 of 1988

L.S.Gupta Vs. Union of India & Others

3. O.A.No. 715 of 1988

Arjun Singh Vs. Union of India & Others

4. O.A.No. 1080 of 1988

G.M.Roy Vs. Union of India & Others

5. O.A.No. 1156 of 1988

R.C.Gupta Vs. Union of India & Others

6. O.A.No. 1397 of 1988

Ram Babu Gupta Vs. Union of India & Others

Hon'ble Mr. K.Obayya, Member(A)
Hon'ble Mr.S.N.Prasad, Member(J)

(By Hon. Mr.K.Obay ya, Member(A)

The above six applications raise a common issue and the facts being similar, we have heard the cases together and propose to dispose them of hy a common judgment.

2. The applicants in these cases were employed as Teachers in the Schools run by Ordnance Factory, Kanpur under Ministry of Defence. Their prayer is that the benefit of service utp 60 years of age should be extended to them. The applicant in O.A.No.867/86 Suraj Narain Lal was appointed as Assistant Master(Biology) in the Ordnance Factory High School, Kanpur in the year 1955 and was retired on 31.12.86 after attaining the age of superannuation i.e. 58 years The applicant in O.A.No.987/88 L.S.Gupta was appointed as Non-language Teacher in the Ordance Factory Inter College Kanpur in the year 1960 and was retired w.e.f. 1.8.88 after compdetion of 58 years of age. The applicant in O.A.No.715/86 Arjun Singh was appointed as Maths Teacher in the year 1964 in Ordnance Factory Inter College, Kanpur and was retired on 1.8.88 after completion of 58 years of age. The applicant

in O.A.No.1C.0/88 Smt. G.M.Roy was appointed as Primary School Teacher in 1952 and was retired on 31.3.89 as Head Mistress Ordnance Factory Primary School Armapore, Kanpur w.e.f. 1.4.89. The applicant in O.A.No.1156/88 R.C.Gupta was appointed in 1958 as Assistant Master, later he was promoted as Non-Langua e Teacher in the Ordnance Factory Inter Colleçe, Armapore, Kanpur and was retired from service on 1.12.88 after attaining 58 years of age. The applicant in 1397/88 Ram Babu Dixit was appointed as Non-Language Teacher in the Ordnance Factory Inter College Armapore, Kanpur in the year 1963 and was retired on 31.1.89 after completion of 58 years of age.

3. The common case of the applicants is that during the year 1983 Government of India took a decision to raise the age of retirement of the teachers working in the schools run by Central Govt. Departments from 58 years to 60 years. The notification in this regard was issued on 9.5.84, but the order raising retirement of 60 years was given effective from 2.9.83. All the Central Government Deparment implemented the above rule and the Railways also followed suit but the Ministry of Defence did not implement the above order. Consequently the teachers working in the schools run by Ordnance Factory had to retire on completion of 58 years of age. This is alle ed by the applicants as arbitrary and discriminatory. The applicants made several represenations to the authorities in this regards, but the represenations stood rejected. The stand of the respondents is that the Ministry of Devence and the Ordnance Factory stand on a different footing, they are production units and not commercial organisations like Railways and hence there was no question of parity in matter of applying the rules of retirement.

4. We have heard the counsel for the parties. It would appear that the matter of enhancing the retirement age of teachers in the Ordnance Schools was agitaged before the Supreme Court in W.P.No.118/87(B.P.Singh and others Vs. Director General Ordnance Factory & Others), the Supreme Court while dissmissing the petition held that since the age of retirement of teachers has been fixed uniformly at 58 years no case of discrimiation is made. In Its decision Supreme relied on the instructions of Govt. of India which are to the following effect:

> "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 retirment 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/instructions prior to this date, shall continue to enjoy the existing benefit and superannuate on attaining the age of 60 years. Further in respect of such schools/institutions, no new appointment, either on regular or ad-hoc basis, shall be made between the date of this office memorandum and 1.4.1989."

From the above instructions it is evident that the age of retirement of the teachers working in all the schools under different departments including Ministry of Defence has been brought down to 58 years of age w.e.f. 1.4.89. However, the exception to the above instruction is that the teachers who were in service prior to 1.4.89 they shall continue

to enjoy the benefit of superannuation on attaining age of 60 years. The learned counsel for the applicant also pointed out the decision of the Supreme Court in Nand Kishore Nayak Vs. State of Oriss (AIR 1991 SC page 1724). wherein it was held that providing the age of retirement 58 years in respect of some and 60 years in respect of the others constituting same class of persons is not maintainable. Thought the appeal was allowed giving benefit of 60 years of age, the beneferies were not allowed the salary for the period they have worked. we consider that the matter regarding enhancement of retirement age of teachers working in the schools run by Ordnance Factory is settled by Supreme Court in its decision in B.P.Singh and others referred to above. All the applicants in the above cases have since retired from service and in this circumstances they will only be entitled for pensionary benefits. Accordingly we direct the respondents to give the benefit of 60 years of age for superannuation for all the applicants only for the purpose of pensionary and others retiral benefits. The respondents are further directed to reopen the pension cases of the applicants and re-fix their pensions adding 2 years to the retirement date. The difference in amount of pension and other entitlement should be settled within a period of 3 months from the date of receipt of copy of this order. The applications are allowed as above.

No order as to costs.

Copy of the judgment should be placed in each of the files.

Sd-
Member(J)

Sd-
Member(A)

20th December, 1991, Alld.

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