

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

O.A. No: 599/90

of 199

T.A. No:

of 199

DATE OF DECISION: 21-4-93

Union of India  
DRM / JHS. PETITIONER.

----- ADVOCATE FOR THE  
PETITIONER

V E R S U S

Km Nirmala Sharma RESPONDENTS

----- ADVOCATES FOR THE  
RESPONDENTS

\*\*\*\*\*

CORAM:-

The Hon'ble Mr. K. Chayya AM

The Hon'ble Mr. AK Sinha

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement? ☒
4. Whether to be circulated to all other Benches?

JAYANTI/

SIGNATURE

21/4/93

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD

O.A. No. 599/90

A 2  
123

Union of India  
DRM, Central Rly., Jhansi

...

Applicants

Vs.

Km. Nirmla Sharma

...

Respondents

Hon. Mr. K. Obayya, A.M.  
Hon. Mr. A.K. Sinha, J.M.

(By Hon. Mr. K. Obayya, A.M.)

1. This application has been filed by <sup>the</sup> Union of India for setting aside the order of the prescribed authority dated 7.1.1986 in P.W. Case No.70 of 1982. In spite of repeated opportunities, respondents <sup>have</sup> not filed the Counter. We have heard the Learned Counsel for the applicant and the case is <sup>being</sup> disposed of finally.

2. The respondents, one Shri Dwarika Prasad, who appears to have died subsequently and now represented by his daughter, was in the employment of G.I.P. Railway which was later on taken over by the Indian Railways and now known as Central Railway. He was appointed as Trains Clerk and was promoted to the post of Head Trains Clerk. He was retired from service on attaining the age of superannuation at the age of 55 years on 4.12.1958. The respondents moved to the Court of Prescribed Authority challenging the retirement and his contention was that he should have been retired at the age of 60 years on 4.12.1963 and not earlier.



2. The Railway Administration had contested the case and according to them, the respondent was retired on completion of 55 years of age in accordance with rules and that the matter relating to retirement age can not be questioned before the prescribed authority. The case was also contested on grounds of delay and laches.

3. The Learned Prescribed Authority considered the entire issue and placing reliance on the judgement of Delhi High Court in a similar matter in Railway Board Vs. Pichumandi, Appeal No.1768 allowed, the application of respondents, and awarded an amount of Rs. 20,665/- towards the arrears of pay and settlement, illegal deductions of pay etc. and compensation costs.

4. The Learned Counsel for the Railway Administration in his submissions, pointed out that under the payment of wages Act, the Prescribed authority had no jurisdiction to adjudicate in the matter relating to the age of retirement. It is also stated that the judgement of the Delhi High Court can not be applied to the case of the applicant as it was not judgement in rem. The Learned Counsel also raised the plea of limitation in as much as the respondent who was retired in the year 1958, has approached the prescribed authority belatedly after many of years. We have considered these contentions.

5. In our view, the Learned Prescribed Authority erred in going into the service condition<sup>as</sup> the age of retirement of the respondent, which is beyond the jurisdiction and is not provided within the scope of payment of wages Act. The Judgement and order of prescribed authority dated 7.1.1986 is liable to be set aside<sup>as</sup> without jurisdiction and the same

is hereby set aside. The application is allowed  
with no order as to costs.

4  
Ashu Kumar Singh,  
Member(J)

Member (A)

Allahabad  
dt. 21.4.93  
/smc/