

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THER 2nd DAY OF AUGUST, 2000

Original Application no.649 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

Bhag Singh, Son of Jawahar Singh,
R/o 2, Sarojini Naidu, Out House
No.C Railway bungalow), Allahabad.

... Applicant

(by Adv: Shri K.S.Saxena)

Versus

1. The Union of India through the General Manager, Northern railway Baroda House, New Delhi.
2. The Divisional Railway manager, Northern Railway, Allahabad.
3. The Senior Divisional personnel Officer, Northern Railway, DRM Office Allahabad.

... Respondents

(By Adv: Shri Prashant Mathur)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi, V.C)

By this application u/s 19 of the Administrative Tribunals Act, 1985 the applicant has prayed that the respondents may be directed to retire the applicant on 30.6.1995 when he attained the age of 60 years.

It is not disputed that on 30.6.1993 when the applicant was retired from service he was holding class 'C' post. Reliance has been placed in Para 1801 of the Indian Railway Establishment Code Vol-II which reads as under:-

1801.(F.R.56)-(a) Except as otherwise provided in this Rule, or any other rule or order for the time being in force, every Railway servant shall retire from service on the afternoon of the last day of the month in which he attains the age

of fifty eight years.

(b) Railway servant in Group 'D' service
or post who, prior to 1st December, 1962
was entitled to serve upto the age of sixty years,
shall retire from service on the afternoon
of the last day of the month in which he
attains the age of sixty years."

From bare perusal of the aforesaid rule it is clear that age of superannuation for all Railway servants is 58 years. However, an ~~exception~~ ^{exception} has been carved out in clause 'B' with regard to Railway servants in Group 'B' ^{and in their case} the age of superannuation shall be 60 years. Admittedly, applicant was promoted during service and on the date he attained the age of superannuation he was serving as a Railway servant in Group 'C'. In the circumstances, he is not entitled for the exemption carved ~~in~~ ⁱⁿ class 'B'.

The learned counsel for the applicant, however, tried to draw the distinction on the basis of FR-56 which provides that a workman who is governed by the rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. In our opinion Rule 56 is meant for government servants. For persons serving in Railway Establishment Rules are contained in Railway Establishment Code. The language 'may have been borrowed' from FR-56 for framing para 1801 of the Code. However, when the Rules under which the service of the applicant was governed provided separate and independent rules, ^{he} cannot claim benefit under FR-56 by ~~an~~ analogy. In our opinion the applicant was rightly retired from the service ^{at the age of} on attaining the 58 years.

The application has no merit and is accordingly rejected. No order as to costs.

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MEMBER(A)

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VICE CHAIRMAN

Dated: 2nd August, 2000