

3  
A2  
2

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

1. Original Application No. 999/93

Murlidhar Gupta .....

Applicant

Versus

Union of India & others .....

Respondents

2. Original Application No. 1010/93

Sarjoo Prasad .....

Applicant

Versus

Union of India & others .....

Respondents

Hon'ble Mr. Maharaj Din, Judicial Member.

Hon'ble Mr. V.K. Seth, Administrative Member.

( By Hon'ble Mr. V.K. Seth, Admn. Member)

In both the above mentioned applications the facts and circumstances are identical and the relief sought is also identical and, therefore, both these cases are being disposed of by this common order.

2. The applicant in O.A. No. 999/93 Murlidhar Gupta, is a senior Stores Superintendent in Central Ordnance Depot, Chheoki while the applicant in O.A. No. 1010/93, Sarjoo Prasad, is a Stores Superintendent in Central Ordnance Depot, Chheoki. Both these applicants were retired by the same order viz. Daily Order Part-I No. 762/Adm. dated 27.5.92 (Annexure A-I), by Brig. R.N. Batra, COD, Chheoki. The applicants in both the cases have prayed for quashing of the impugned order dated 27.5.92, and also sought directions to allow them to serve till they attain 60 years of age.

3. The applicant, Shri Murlidhar Gupta, in O.A. No. 999/93, in support of his claim, has stated that the Central Ordnance Depot, Chheoki, is registered under the Factories Act and as such it is an Industrial Establishment and the applicant is a "Workman" under the said Act. He also asserts that as he is a "Workman" serving under the Industrial Establishment Act, F.R. 56 (b) providing for 60 years as the age of retirement is applicable to him. He has also drawn support from the decision of this Hon'ble Tribunal in O.A. No. 195/92 B.N.P. Dwivedi Vs. Union of India & others. The applicant Shri Sarjoo Prasad, in O.A. No. 1010/93 has also advanced similar arguments.

4. In his rejoinder affidavit, the applicant Murli Dhar Gupta in O.A. No. 999/93 further contends that rules regarding Superannuation are given either under paragraph 56 (a) and (b) of Fundamental Rules or is given under Article 459 (a) and (b) C.S.R. and both these rules are applicable to him. He further asserts that the Industrial Dispute Act defines the word "Workman" in a limited sense and further section 2-A of the Industrial Dispute Act only applies to the dispute between the "Workman" and the employer if the "Workman" is discharged, dismissed, retrenched or otherwise terminated and no further and that the present matter relates to none of the above but it is a case of superannuation which is covered by Fundamental Rule F.R. 56 (b) or Article 459 (b) of the C.S.R. He also admits that S.L.P. No. 282 of 1993 Union of India & others Vs. Baij Nath Prasad has been filed but claims that there is no interim order by the Supreme Court.

5. In their counter-affidavits the respondents, inter-alia, have contended that the petitioners are not "Workman" as defined in the note attached to F.R. 56 (b) and that they are 'non-industrial Group-C' employee whose service conditions are governed by Indian Ordnance Factories' Group 'C' and Group 'D' non-industrial posts (recruitments and conditions of Service Rules 1989). It is also contended that the petitioners perform Supervisory functions and draw salary exceeding Rs. 1600/- per month, and they are Civilians who are paid salary from Defence Service estimates and as such F.R. 56 (b) would not be applicable in the present cases. It is also stated that S.L.P. No. 282/93 in the case of Union of India & others Vs. Baij Nath Prasad, was filed in the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to issue notice and grant interim stay.

6. We have carefully gone through the records of the case and have also given our anxious consideration to the arguments advanced by the learned counsel for the parties.

7. The respondents assert that F.R. 56 (b) is not applicable to the case of the petitioners as the salary of the applicants is paid from Defence Service estimates though it is not in dispute that almost identical provisions in the Civil Service regulations are applicable to the case of the petitioners. The said provisions are reproduced below :-

5  
A2  
4

"F. R. 56 :-

(a) Except as otherwise provided in these rule, every Government 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) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

NOTE:- In this clause, a workman means a highly skilled, skilled, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment. "

8. The corresponding provisions of Civil Service regulations read as below :-

" CSR Article 459:(a): Except as otherwise provided in this Article, every Government servant shall retire on the day he attains the age of fifty eight years.

(b) A workman who is governed by these regulations shall be retained in service till the day he attains the age of sixty years.

NOTE:- In this clause, "Workman" means a highly skilled, skilled, semi-skilled or unskilled artisan employed on a monthly rate of pay in an industrial or a work charged establishment.

9. From the reading of the above note it is obvious that the "Workman" eligible for the benefit of clause (b) should be an 'artisan' employed on a monthly rate of pay in an industrial or work-charged establishment. It is immaterial whether the 'artisan' so employed is highly skilled, skilled, semi-skilled or unskilled. No particular definition of 'artisan' in any of the rules cited has been brought to our notice and, therefore, we have to be guided by the definition of 'artisan' as per the dictionary, in the context of the case. According to Concise Oxford Dictionary the 'artisan' means :-

" a skilled (specially manual) worker or mechanic "

10. The learned counsel for the applicants during the course of hearing, could not produce any material to substantiate the contention that the applicants who are Senior Stores Superintendent, Stores Superintendent of the Central Ordnance Depot, Chheoki, fit into the above definition of 'artisan'.

11. We may now consider the case law cited by the applicants in their support. The applicants have cited the judgment of the ~~the~~ Allahabad Bench of ~~the~~ Tribunal dated 29.9.92 in O.A. No. 195/92 in re B.N.P. Dwivedi Vs. Union of India & others. In the said case the applicants were an Upper Division Clerk serving at Army Base Workshop. While granting the prayer of the applicants for allowing him to continue in service till 60 years, their lordships of this Tribunal also made a reference to AIR 1992 SC 1586 in the case of Chandigarh administration Vs. Ajit Singh. It is noteworthy that the said case did not relate to an employee of the Ordnance Depot. Moreover the respondents in the present cases have claimed that as a result of S.L.P. which was filed by the Union of India in B.N.P. Dwivedi case, the Hon'ble Supreme Court has granted an interim stay. Though the fact of grant of stay has been disputed by the applicant Murlidhar Gupta in O.A. No. 999/93 in his rejoinder, it is not disputed that S.L.P. No. 282/92 challenging the decision of this Hon'ble Tribunal in the case of B.N.P. Dwivedi has been filed and admitted by the Hon'ble Supreme Court. Despite being asked by us neither side ~~was~~ could produce a copy of the order passed by the Hon'ble Supreme Court on the S.L.P. As regards AIR 1992 SC 1586 (Chandigarh Administration Vs. Ajit Singh) cited in the decision of this Hon'ble Tribunal in the decision is Dwivedi's case, the said case was remitted by the Hon'ble Supreme Court to Chandigarh Bench of the Hon'ble Tribunal for considering and disposing of the matter afresh, in the light of Mehar Singh's case which in-turn was remitted back to the Tribunal by the Hon'ble Supreme Court for examining the matter in the light of evidence as regards the nature of the work. In view of the aforesaid position we feel that the decision of this Hon'ble Tribunal in B.N.P. Dwivedi's case need not prevent us from taking afresh view in the present cases in the light of the material presented before us.

12. In view of the foregoing discussions we find the claim of the applicants in O.A. No. 999/93 and O.A. No. 1010/93 for being treated as "Workmen" under FR 56-B or CSR Article 459 (b) and being allowed to continue to serve till they attain 60 years of age as untenable. These applications therefore, fail and are accordingly dismissed.

13. In the facts and circumstances of the case there will be no order as to costs.

*W*  
Admn. Member

*W*  
Judicial Member

Allahabad, Dated : 26/7/93

LUCKNOW DATED :