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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 321 OF 1996

17th Jan. 2003

Bhabani Sankar Pattnaik

.....

Applicant

Vrs.

Union of India and others

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes

(M.R. MOHANTY)
MEMBER (JUDICIAL)

17/01/2003

(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 321 OF 1996

Cuttack, this the 17th day of January, 2003

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

.....
Bhabani Shankar Pattnaik, son of late Hari Charan Pattnaik, Skilled
Worker, Gr.II, S.I.S.I. Workshop, Madhupatna, Cuttack 10
..... Applicant.

Advocates for the applicant - M/s A.Routray
Mrs.S.Rout
B.Swain

Vrs.

1. Union of India, represented through its Secretary, Ministry of
Industry, Department of Industrial Development, Udyog Bhavan,
New Delhi.
2. The Director, S.I.S.I., Vikash Sadan, College Square, Cuttack

..... Respondents.
Advocate for the respondents - Mr.J.K.Nayak, ACGSC

.....
ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

The applicant, Shri Bhavani Sankar Pattnaik had filed this O.A.,
assailing the order of Respondent No.2, at Annexure 1, retiring him
from 30.4.1996 on attaining the age of superannuation, i.e., 58 years
of age. The applicant was a Skilled Worker Grade II in Small

Industries Service Institute (S.I.S.I.) Workshop, Madhupatna, Cuttack and he claimed that being a workman, he was entitled to the benefit of provisions of FR 56(b) and therefore, should retire on superannuation only after attaining the age of 60 years.

2. The short point to be answered in this O.A. is, whether the applicant comes within the purview of FR 56(b). The learned counsel for the applicant, during oral arguments, has vehemently stated that S.I.S.I. is an industrial unit and relied on the judgment of the Ernakulam Bench rendered on 20.12.1992 in O.A.No. 1427 of 1992(P.K.Krishnan Kutty and seven others v. Mr.Thamper Thomas) and the decision of the Bangalore Bench, rendered on 21.1.1991, in O.A.No.779 of 1990. Opposing the O.A., Shri J.K.Nayak, learned Additional Standing Counsel, has submitted that whether S.I.S.I. is an industrial unit or whether the applicant is entitled to the benefit of age superannuation under FR 56(b) has already been decided by the Courts. Referring to the Award of the Industrial Tribunal in Karnataka in Central Reference No. 29 of 1984, the learned Additional Standing Counsel submitted that persons working in S.I.S.I. Centres do not come within the purview of the Industrial Disputes Act, 1947 and are not workmen as they are being governed by Central Civil Services Rules and their pay and allowances governed by Central Pay

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Commission. Regarding applicability of FR 56(b), he drew our attention to the judgment of the Apex Court in the case of State of Orissa v. Adwait Charan Mohanty, JT 1995 (2) SC 6: 1995 SCC (L&S) 522. At the end, the Apex Court observed as follows:

“13. Therefore, we are of the considered view that the government employee in Class III service shall retire on completion of 58 years of age. Even an artisan-workman, who was promoted or appointed to Class III service, be it gazetted or non-gazetted, shall retire on completion of 58 years of age. xx xx In this view, it is not necessary to decide whether any industrial establishment in a Government department, not specified, expressly, is an industry or a factory as contended by the respondents. The Code clearly gives benefit to them. One essential condition to be satisfied is that such an artisan-workman, be it highly skilled, skilled, semi-skilled or unskilled, must, of necessity be on monthly pay of the Government.”

*Corrected
vide order
dt.10.2.03.
V.C.
M(J)

Following the said decision of the Apex Court, the ~~Guwahati~~ Bench of ~~*Ahmedabad~~ this Tribunal in O.A.No.416 of 1995, decided on 19.9.1997, held that Drivers in the Transport Section of Heavy Water Plant of the Department of Atomic Energy, being Class III employees, are not entitled to the benefit of proviso to Clause (b) of FR 56.

4. In the instant case, the applicant, who is a Skilled Worker Grade II, is a Group C Non-gazetted Non-ministerial employee of the S.I.S.I. under Ministry of Industries and therefore, is not entitled to the

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benefit of FR 56(b). In view of the above, the Application is devoid of any merit and must fail.

5. The Original Application is accordingly rejected. No costs.

17/01/2003

(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
AN/PS