

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

Tuesday, the tenth day of November, One thousand
nine hundred and eighty seven.

PRESENT

The Hon'ble Justice Shri G. Ramanujam, Vice Chairman &

The Hon'ble Shri C. Venkataraman, Administrative
Member.

ORIGINAL APPLICATION NO. 452 OF 1986

P.T. Joseph ... Applicant

vs.

1. Union of India, represented by the
Secretary, Ministry of Defence,
Central Secretariat, New Delhi.

2. Director General, N.C.C.
West Block, No.4 R.K.Puram,
New Delhi.

3. Director, National Cadet Corps,
Directorate, Kerala and
Lakshadweep, Trivandrum.

Respondents

M/s. S.V.S.Ayyar, T.H.Abdul Azeez
and V.Giri.

Advocates
for the
applicant.

Mr. P. Santhalingam

Addl. Central
Government
Standing
Counsel for
Respondents.

O R D E R

(Pronounced by Hon'ble Shri C. Venkataraman,
Administrative Member)

This is an application filed by one P.T. Joseph, who was working as N.C.C. Commissioned Officer on his being aggrieved by an order dated 7th April, 1986, passed by the Director General, N.C.C. pointing out that there is no provision for grant of extension of retirement age for ^{the} applicant beyond 55 years and thus not entertaining his representation in that regard. The applicant served in the Indian Army from 1956 to October, 1967. In November, 1967, he was commissioned in the N.C.C. as a wholetime N.C.C. officer. The terms and conditions of service of N.C.C. officers are contained in Government of India letter No. 5431/DGNCC/PC/TCS/MS(B)/1130/A/D(GS-VI) dated 23rd May, 1980. According to that letter, such N.C.C. officers are to be governed by Central Civil Services (Pension) ^{for their Pension, DORA and Family Pension.} Rules, 1972. The applicant's case is that he is entitled to be in service till he completes the age

of 58. However, on 4-6-1985 he was informed that he was attaining the age of superannuation on 31-5-1986 when he was attaining the age of 55 only. His representation for retention in service till he attains the age of 58 was not entertained. Accordingly he has sought relief that the respondents should be restrained from terminating his service on 31-5-1986 and for a direction that he should be retained till he completes 33 years of service or 58 years of age. The counsel for the applicant stated before us that the terms and conditions of service of N.C.C. officers which has been attached as Annexure-II to the application specifically states that they are governed by the C.C.S. (Pension) Rules, 1972^{for their Pension etc.} According to Rule 49 thereof, a person would get full pension only on completion of 33 years of

qualifying service. The applicant could not get 33 years of qualifying service if he is retired on 31-5-1986 when he attains the age of 55 years. 33 years has been fixed in the Pension Rules on the basis of age of superannuation at 58 years of age. Therefore, he contended that the applicant's age of superannuation should be deemed to be 58. On this ground he requested that the prayer in the application be allowed.

At the outset when the question of jurisdiction of this Tribunal to go into this case of an officer who was an N.C.C. Commissioned officer was raised, both the counsel for the respondents and the applicant pointed out that under Section 2(a) of the Administrative Tribunals Act, only members of the Naval, Military or Armed Forces or any other armed forces of the union are excluded from the provisions of the said Act. N.C.C. officers do not come under this category as they do not form part of the armed forces of the Union. Accordingly, they come within the jurisdiction of this Tribunal.

The learned counsel for the respondents stated that on merits the applicant did not have a case. He pointed out that as per letter dated 24th May, 1980, the President was pleased to grant N.C.C. Permanent Commission to the N.C.C. Whole-time Officers mentioned in the Appendix to that letter as per terms and conditions of service which were issued separately in the same Ministry's letter of 23d May, 1980, attached as Annexure-II to the application. According to that, N.C.C. officers enjoy various privileges such as L.T.C., amenity transport, free medical treatment etc. as per the rules applicable to regular officers of the armed forces. It was only for pension, family pension and D.C.R.G. that they have been governed by the C.C.S. (Pension) Rules. As far as the age of superannuation is concerned, it has been specifically brought out in the said terms and

conditions of service issued on 23-5-1980

that N.C.C. commissioned officers were eligible to serve till 55 years of age. Accordingly, he stated that there is no question of allowing them to continue till they are 58 years old. He further pointed out that out of 700 similarly placed N.C.C. whole-time officers, more than 200 had already retired from service on attaining the age of 55 years. In the circumstances, he prayed that the application be dismissed.

The counsel for the applicant seeks strength for his application from the CCS (Pension) Rules. Inviting Rule 49 thereof, his contention is that for eligibility for maximum pension, one should complete 33 years of qualifying service and this ^{much} qualifying service was fixed on the basis of age of superannuation being ^{at} 58^{yr}. Accordingly, his point is that the applicant should be allowed to continue till he completes 58 years of age. However, he was not able to point out in the CCS (PENSION) Rules,

^{any} ~~which~~ ^{which} rule prescribes the age of superannuation at 58. All that we are able to see is that according to Rule 35 of the Pension Rules, "a superannuation pension shall be granted to a Government servant who is retired on his attaining the age of compulsory retirement." What that age of compulsory retirement has not been stated. It is only ~~in~~ [✓] F.R.56 which prescribes that "except as otherwise provided in this 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." In the case of the applicant it is nowhere stated that he is governed by the Fundamental Rules. On the contrary, as regards the age of superannuation, there is a specific provision which states that he would be eligible to serve till 55 years of age. This is as per the terms and conditions of service of N.C.C. Wholetime officers, attached as Annexure-II

to this application. These terms and conditions were accepted by the applicant before he took up the N.C.C. Commissioned officer's post. Therefore, he cannot now contend that he is entitled to serve till he completes the age of 58 years, especially when he is not able to cite any statutory rule in support of his contention.

The application is therefore dismissed.

C Venkataraman
17/11/1987

(C. Venkataraman)
Admv. Member.

G

(G. Ramanujam)
Vice Chairman

10-11-1987

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