

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 544/91
T. A. No.

199

DATE OF DECISION 17.9.1991

P. Vasudevan & another Applicant (s)

Mr. C.P. Ravindranath Advocate for the Applicant (s)

Versus

Union of India, Deptt. of Respondent (s)
Industries and 3 others.

Mr. N.N. Sugunapalan for Advocate for the Respondent (s)
R.1-4.

CORAM:

The Hon'ble Mr. NV.Krishnan Administrative Member

The Hon'ble Mr. N. Dharmadan Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

SHRI N DHARMDAN, JUDICIAL MEMBER

The issue arising for consideration in this case is the interpretation of F.R.56 (b) and the scope of the term 'Artisan' used therein and a decision as to whether the two applicants are entitled to continue till they attain the age of sixty years.

2. Applicants while working as skilled workers Grade II at the Government of India Extension Centre at Shoranur filed this application on 4.4.91. On attaining age of 58 they/retired from service on 30.6.91, (1st applicant) and 31.8.91(2nd applicant). According to the applicants, similarly situated employees of the same establishment are given the benefit of continuing the service till they attain sixty years based on Annexures B & E judgements of this Tribunal and Bangalore Bench. They filed Anne. C & A

there was *b*
representation but */* no response. Hence, they seek a
declaration that the action of the respondents
to retire the applicants on the attainment of 58
years is illegal and violative of FR 56(b) and for
a direction to the respondents to allow them
to continue in service till they attain the age of
60 years.

3. The question considered in Anne. B & E
judgements are (i) whether the Production Centres are
industrial or work-charged establishments and
(ii) whether skilled workers Grade I & II are
governed by Recruitment Rules framed under Article 309
of the Constitution of India and F.R. 56(a). In fact
and the *b*
the application of F.R. 56(b) */* scope of the term
'Artisan' has not been xxxxxxxxxxxx considered or
in *b*
dealt with */* these cases. Hence these judgements
are not helpful for deciding the real issue arising
in the instant case.

4. F.R. 56(b) reads as follows:

"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 artisans
employed on a monthly rate of pay
in an industrial or work-charged
establishment".

Under this Rule a 'workman' governed by FRs as explained in the 'Note' above shall be eligible for the benefit of continuing till he attains the age of sixty years.

5. In order to grant relief to the applicants we have to find out whether they are workmen coming within the definition under the 'Note' /FR 56 (b), which says that an 'Artisan', whether highly skilled, skilled, semi-skilled or unskilled, employed in an industry or work- charged establishment is a workman. Importance is given to the term 'Artisan', but it has not been defined in the 'Note'.

6. According to the dictionary 'Artisan' is a person

"trained to manual dexterity or skill in a trade: HANDICRAFTMAN" (Webster's third New International Dictionary Vol I Page 124.),

"one skilled in some kind of mechanical craft or art, a skilled mechanic" (Black's Law Dictionary 4th Edn. Page 145.)

"An 'Artisan' is one who is employed in an industrial or mechanic art or trade, State Vs. City of Ottawa 113 P.391 (Words & Phrases, Permanent Edition Vol 4 Page 511.)

"Artisan", according to Corpus Juris Secundum, is 'a term that signifies one skilled in some kind of mechanical craft'; O'clair Vs Hale 54 N.Y.S. 386; one trained for manual dexterity in some mechanic art or trade; a handicraftsman : a mechanic; City Vs. Yates 208 P. 201 1147; one who is employed in an industrial or mechanic art or trade; State Vs Ottawa 113 P 391; a skilled mechanic",

"The term has been held to include architects, carpenters, painters, floor furnishers, Civil Engineers and plasterers"

"Artisan" has been held synonymous with

'mechanic' and compared or distinguished from 'workman', 'labourer' and 'artist'".
Corpus Juris Secundum, Vol 6-A page 296.

7. The Principal Bench of Central Administrative Tribunal, in which one of us, Shri N.V. Krishnan/^{Member} considered this issue elaborately in OA- 2209/89, in the light of various decisions, dictionary meanings etc. while examining whether pharmacist is a workman for the purpose of FR 56 (b) and held as follows:

"These meanings require that one should not be merely doing manual work but should also be a craftsman. That imports the idea of dexterity in manual skills, which seems to be crucial to become an artisan. Thus, an artisan would be a person who is essentially and almost wholly dependent on the dexterity with which he performs manual functions, particularly with his hand or legs or both. Thus, a blacksmith, a carpenter, a potter, a goldsmith will be artisans besides the other persons mentioned in the aforesaid definitions.

All these persons no doubt perform manual work, but two characteristics can be noticed.

The first is that these types of work depend more on dexterous manual skills than intellectual attainments. Every one has a mental concept of a chair and know what it looks like, but hardly any, but a carpenter can prepare one. It is only a carpenter who can make one using the skill of his hands in cutting, drawing, chopping etc. of wood. A clerk in an office uses his hand for a full day to write notes etc. This is a manual function. That does not make him an artisan because it does not call for any skilful use of his hand. The manual work done by him follows a very active intellectual or brain work. He must know what to write for which he has to think or read. On the same ground a typist will not be an artisan. He can be a fast typist and very skilful, but this is different from dexterity in manual work. However, if instead of merely typing letters, notes or judgements which do not call for any skill other than typing--he were to use the typewriter to produce a work of art--say a map of India or alikeness of Mahatma Gandhi--he too would be an artisan as he has, in addition, used his skill with great dexterity to produce a work of art.

AD

It would also appear that artisans are persons who produce goods on their own, which even if not made to order, are likely to sell in the market. Thus, given the resources, a carpenter can make chairs or a blacksmith can manufacture hammers, etc. which will be available for sale. This aspect has not been adverted in the judgement of the Hon'ble Court referred to above.

The manual work of a Vehicle Inspector is not like that of the carpenter or a blacksmith. It is more akin to that of a clerk or a typist, where the manual work follows a very active intellectual exercise. The inspection does not call for any dexterity in the use of his limbs."

8. So an artisan is a person who not only uses his limbs for the discharge of his official duties, but whose brain and dexterity should also be in readiness to co-operate with or grace the physical activity. In other words an artisan's activities and works for producing the result would vitally depend upon his dexterity, the skill and ease in using the limbs or the expertness and knowledge in that particular act. The readiness in the use or control of the mental power or quickness and skill in managing any complicated affair with the limbs is a relevant aspect in the work of an artisan. Mere mechanical/^{and} manual work without any skill, dexterity or mental co-operation would not probably make a worker an artisan as explained in the 'Note' to FR 56(b).

9. With these principles in mind we have to examine the facts in each case for finding out whether a worker is entitled to the benefit of

FR 56(b). In the instant case the applicants worked as skilled workers Grade II. in the Extension Centre. The duties such as grinding, welding, vertical drilling etc are part of their duties. Certain precision works are being carried out by them. In order to show that they fall in the category of skilled artisans the applicants have produced Anne. F to J. From a perusal of these documents, which indicate the responsibilities and job contents of the applicant, it can be seen that they are not xxxx doing mere manual works without any special skill or dexterity. The works such as Die filling, welding, smithy etc. which were carried on by the applicants during the service are specialised categories come within the purview of the 'Note' to FR 56(b).

In this view of the matter the applicants are entitled to continue in service upto sixty years.

10. Though the applicants retired from service after the filing of this application we passed an interim order on 6.8.91 in the following manner

"We, therefore, direct the respondents to pay the applicants, for each month after their retirement on attaining the age of 58 years, an amount equal to the net monthly emoluments they drew immediately prior to their retirement. Such payment be made for a period of 3 months from the date of retirement. If the applicants succeed in this application, the amounts shall be adjusted against the salary due to them from the date from which they were wrongly retired. If, however, this application is

is dismissed this interim payment shall be adjusted against the gratuity payable to the applicant on retirement at the age of 58 years. The question of paying pension and gratuity to them, should be deferred till this application is disposed of."

11. In the result we allow this application and declare that the action of the respondents to retire them from service is illegal and direct them to take back the applicants and grant them the benefit of FR 56(b) with all consequential benefits as if there is continuity in service ^{as 12} ~~within one month from today~~ ^{17.8.91} permissible under law. They are entitled to make adjustments of the amounts, if any, already paid to the applicants pursuant to the interim order, against the arrears or salary due to be paid to them on reinstatement in service as per the above directions. There will be no order as to costs.


(N Dharmadan) 17.8.91
Judicial Member


(N V Krishnan) 17.8.91
Administrative Member

AVIC/ND

Mr C.P. Ravindranath
Mr K. Prabhakaran by proxy. Jayalalithaa
Respondents seek some more time

Call on 6.1.92

3/12/91

NVK & ND

(11) Mr CP Ravindranath for petitioner (20+4)
Mr K Prabhakaran, AGSAC for respondents.

It is submitted by the learned counsel for the respondents that the respondents have also filed an MP seeking more time to comply with the original order. That MP is not before us. We are of the view that the CCP and MP should be heard together. Accordingly, list both the CCP and MP for further directions on 13.1.92.

LD

6.1.92

NVK & ND

(7) Mr CP Ravindranath
Mr K Prabhakaran, AGSAC by proxy.

At the request of the learned counsel for the applicant, call on 20.1.92.

LD

13.1.92

NVK & ND

(18)

Mr CP Ravindranath - Ambeet
Mr K. Prabhakaran, Seze by Proxy

It is submitted that Mr Ambeet has
been complying with. Ambeet seeks some
more time to conform this. Call on
27/12/91

LD
20/12/91

AM

MR. AND MRS.

Mr. C. P. Ramaswamy (Applicant)
Mr. G. Prabhakaran, Plea by Power

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The learned Counsel for the
Petitioner submits that the order has
been complied with. Hence, we close
this C.P.

RP

Pr 28/

m 10

Prh

Mr. Dharmanand
(Mr. Dharmanand)
Judicial Member

Mr. V. Krishnamoorthy
(Mr. V. Krishnamoorthy)
Administrative Member