

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM

O. A. No. 554 1990
XXXXXX

DATE OF DECISION 16.1.1991

N.K.Padmanabhan & Another Applicant (s)

Mr.CP Ravindranath Advocate for the Applicant (s)

Versus

UOI rep. by Secy., Deptt. of Industries, GOI, New Delhi & 4 others Respondent (s)

Mr.P.Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

who
The applicants were working as Skilled Workers

Grade II under the Department of Industries, Government of India in the Production Centres at Ettumanoor and Extension Centre Neyyattinkara, retired from service on 31.1.1990 and 28.2.1990 respectively on attaining the age of 58 years. Before their retirement the Central Government Production Centres Employees Association, Ettumanoor, Kerala represented by its Secretary and one Azhagappan Achari, a Skilled Worker Grade II, working in the Production Centre, Ettumanoor had filed OA 770/89 for a declaration that the skilled workers grade II working

under the Government of India Production Centres being industrial workmen are not liable to be retired at the age of 58 years, and for a direction to the respondents that the skilled workers represented by the Association should be allowed to continue in service until the attainment the age of 60 years. By final order passed in that application dated 23.5.1990 to which both of us were parties, this Bench had quashed impugned orders in that case and had declared that the age of superannuation in the case of the Skilled Workers Grade II represented by the Association were entitled to continue in service until the attainment of 60 years as provided for in FR 56(b), and had directed the respondents to allow them to continue in service till the age of 60 years. Though the applicants were also members of the Association which espoused the case of the Skilled Workers Grade II in OA 770/89, during the pendency of that application, the applicants 1 and 2 were made to retire at the age of 58 years on 31.1.1990 and 28.2.1990 respectively. After the disposal of OA 770/89, though the applicants made representations for permission to join back in service, the respondents did not permit them to do so. To his representation, the first applicant was told by Annexure-C reply dated 14.6.1990 that he was not entitled to the benefits of the order passed in OA 770/89, since he had retired from service on 31.1.1990. Since in OA 770/89

it was declared that the Skilled Workers Grade II in the Production Centres at Ettumanoor under the first respondent are entitled to continue upto the attainment of age of 60 years as provided for in FR 56(b) and as the applicants 1 and 2 were skilled workers grade II working in Production Centres Ettumanoor and Extension Centre Neyyanttingara respectively, the applicants have filed this application claiming that they are entitled to the benefits of the judgement in OA 770/89 for a declaration that the action of the respondents in retiring them from service on their attaining of the age of 58 years is illegal, arbitrary and violative of FR 56(b) and for a direction to the respondents to reinstate them in service and to allow them to continue till they attain the age of 60 years.

2. In the reply statement filed on behalf of the respondents, it has been conceded that in the light of the judgement of this Tribunal in OA 770/89, no dispute exists regarding the age of superannuation of the Skilled Workers in the Production Centres. The only contention of the respondents is that, as the applicants have retired from service before the order in OA 770/89 was passed the order having ~~only~~ prospective effect, the applicants are not entitled to claim any benefit under the above order. It is further contended that, as the applicants were parties to the application in OA 770/89, as the above

application was filed by the Association representing the applicants also, and as the Tribunal did not specifically order that those who retired prior to the order should also be given the benefits, the applicants are estopped from raising any such claim.

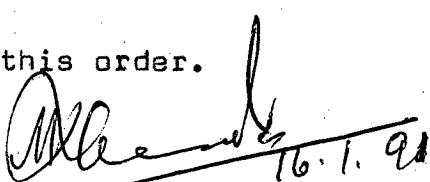
3. We have heard the arguments of the learned counsel on either side and have also carefully perused the records produced.

4. In view of the admission of the respondents contained in paragraph 5 of the reply statement, that no dispute exists regarding the age of superannuation of the Skilled Workers in the Production Centres, as the same is settled by the order of the Tribunal in OA 770/89, the only question that arise for consideration is whether the applicants 1 and 2 who retired from service prior to the pronouncement of the judgement in OA 770/89 are entitled to be reinducted in service and to continue upto the age of 60 years on the basis of the judgement or not. The learned counsel for the respondents vehemently argued that the judgement in OA 770/89 has only prospective effect and that it would not apply to persons who retired before the pronouncement of the judgement. This argument is per se untenable. In OA 770/89, the rights of the parties were determined as on the date on which the right was claimed and not on the date on which the order was pronounced. It is an admitted fact that the applicants 1 and 2 who

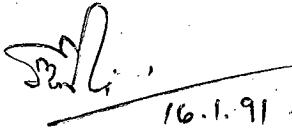
were skilled workers in the Production unit and Extension Centre were in service when OA 770/89 was filed. Therefore, by the declaration in the order in OA 770/89 that Skilled Workers Grade II are entitled to continue in service till they attain 60 years of age, it follows that the date of their superannuation would be the date on which they attain the age of 60 years. Therefore, the action of the respondents in retiring the applicants 1 and 2 at the age of 58 years is against the provisions contained in FR 56(b) and is violative of Article 14 and 16 of the Constitution.

The applicants therefore are entitled to be treated as to have continued in service despite their retirement against the rules.

5. In the result, the application is allowed. The respondents are directed to reinstate the applicants in service forthwith, to allow them to continue in service till they attain the age of 60 years, and to pay them the difference between the salary and allowances which they would have earned during the period while they were out of service and the pension paid to them on their refunding the gratuity and the other retirement benefits received by them. The action in the above lines should be completed within a period of two months from the date of communication of this order.


(A.V. HARIDASAN)
JUDICIAL MEMBER

16.1.91


(S.P. MUKERJI)
VICE CHAIRMAN

16.1.91