BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.
CIRCUIT SITTING AT PANJIM.

1. Tr. Application No.99/87.

Shri Silvestre de Sousa,
Bairro Vaddy,
Merces, Ilhas-Goa.

2. Tr. Application No.100/87.

Shri Antonio F. Barreto,
Bairo Bondir,
P.O. Santa-Cruz,
Ilhas-Goa.

3. Tr. Application No.101/87.

Shri Francisco Araujo,
Bairo Cujira,
P.O. Santa-Cruz,
Ilhas-Goa.

4. Tr. Application No.103/87.

Shri Rogunata Naique,
Palem, Siridao,
Ilhas, Goa.

5. Tr. Application No.104/87.

Shri Laxmikant Bhandari,
H.No.129, Fontainhas,
Panaji, Goa.

6. Tr. Application No.105/87.

Shri Assis Dias,
House No.E-35,
Portais, Panaji,
Goa.

7. Tr. Application No.106/87.

Shri Antonio Joao Romualdo,
Bairo Curra,
Raia,
Salcete-Goa.

8. Tr. Application No.107/87.

Shri Damodar Diucar,
Fontainhas,
Near Maruti Temple,
Panaji Goa.

9. Tr. Application No.108/87.

Shri Joaquim Fernandes,
Azad, Ward Bander,
P.O. Santa-Cruz,
Ilhas-Goa.

10. Tr. Application No.109/87.

Shri Vasu Naik,
Waddy, Merces, Ilhas,
Goa.

11. Tr. Application No.110/87.

Shri Joaquin A.Vaz,
H.No.257, Panaji,
Goa.

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12. Tr. Application No.111/87.

Shri Anant Zo,
Durgawadi,
P.O.Taleigao,
Ilhas-Goa.

13. Tr. Application No.112/87.

Shri Madeva R.Naik,
Durgawaddi,
Taleigao,
Ilhas, Goa.

... Applicants

V/s.

1. Union of India,
through Secretary, Home Affairs,
New Delhi.
2. Union Territory of Goa,
Daman and Diu with office
at Panaji, through
Chief Secretary.
3. Chief Engineer,
Public Works Department, Altinho,
Panaji.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil,
Hon'ble Member(A), Shri P.Srinivasan.

Appearances:

Mr.M.S.Usgaonkar with
Mr.Khandeparkar for
the applicants and
Mr.G.U.Bhobe, counsel
for the respondents.

Oral Judgment:

(Per Shri B.C.Gadgil, Vice-Chairman) Dated: 4.7.1988

Mr.M.S.Usgaonkar with Mr.Khandeparkar for the applicants. Mr.G.U.Bhobe for the respondents. These 14 matters can be conveniently decided by a common judgment. Each of the applicants were working with the Government of Goa, Daman and Diu as an Industrial Worker. Fundamental Rule.56(b) and the note below read 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 artisan employed on a monthly rate of pay in an industrial or work-charged establishment.

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Thus a highly skilled, semi-skilled or un-skilled artisan is to retire on the last day of the month in which he attains the age of 60. It is not in dispute that each of the applicants fell in this category. However, they were superannuated at the age of 58. The applicants in all the applications excepting Application Nos.104, 109, 110 and 111 challenged their retirement at the age of 58 by writ petitions filed in the High Court long after they had completed 60 years of age. However, 4 applicants viz. applicants in Applications Nos. 104, 109, 110 and 111/87 filed writ petitions before they attained the age of 60. All these writ petitions on transfer to this Tribunal have come before us for disposal. The grievance of each of these applicants is that their superannuation at the age of 58 is bad and that therefore, appropriate orders should be passed in their favour.

2. The respondents have filed their reply in Tr. Application No.106/87 and have adopted that reply in all the other applications. It was submitted by them that the applications suffer from delay and laches. It was also contended that all the applicants retired at the age of 58 years without any complaint and have claimed retirement benefits on that basis. The contention is that in the background of this conduct of the applicants, the applicants are not entitled to any relief.

3. It is however, material to note that the question about the correct date of retirement of such employees was considered by the Government on 10th May, 1985 when one Shri Sebastiao A.Tikro was made to retire after attaining 58 years of age. He made a representation to the Government and the Government on 10th May, 1985

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passed an order that the said Shri Sebastiao A.Tikro was an Industrial Worker who could retire at the age of 60. Consequently, Shri Tikro was reinstated in service. Shri Usgaonkar submitted that it is on account of this order of the Government that each of the applicants learnt about his exact legal rights and that therefore, the applicants' claim should not be negatived simply because they accepted retirement at the age of 58. It was also further contended that the applications cannot be barred by laches as the Government itself has passed an order in 1985 and all the writ petitions are filed immediately thereafter.

4. It would be very difficult for Mr.Bhobe to contend that these applicants were not entitled to continue in service upto the age of 60. More so when we look to the provisions of FR.56(b) along with the note thereunder. In fact it is not urged before us that the case of Shri Tikro is in any way different from those of the applicants before us. The respondents have not, in their reply, denied the claim made in this regard by the applicants in their applications.

5. Thus the applicants were made to retire on completion of 58 years of age though they were entitled to work till the completion of 60 years. The only question that remains to be considered is as to what reliefs they should be given at this stage. Mr.Usgaonkar submitted that each of the applicants should be given all the monetary benefits meaning thereby that the applicants should be paid full salary upto the age of 60. In our opinion, it would be just and equitable to pass an order that the applicants' pension should be

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calculated as if they had retired at the age of 60 earning all increments that were permissible to them till that date. We do not think that the applicants should be paid any monetary benefits for the period prior to the attaining age of 60 years. Hence we pass the following orders:

ORDER

1. The applications Nos.99/87, 100/87, 101/87, 103/87, 104/87, 105/87, 106/87, 107/87, 108/87 109/87, 110/87, 111/87 and 112/87 are partly allowed.
2. The respondents are directed to refix the pension of all the applicants from the date they attained the age of 60 as if they had continued in service till that date and had earned increments of salary to which they would have been eligible had they so continued in service.
3. We further make it clear that the Pensionary benefits already paid to the applicants till they completed 60 years of age will remain unaffected and the applicants will not be liable to refund them. These orders should be complied with within a period of 4 months from today. Parties to bear their own costs.

P.S.: Copy of this original judgment may be kept in Tr. Application No.99/87 and similar copies may be kept in Tr. Applications Nos.100/87, 101/87, 103/87 to 112/87.