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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, BOMBAY-1

O.A. No. 433/90

Dr. K.S. Bhaskararao

..Applicant

v/s.

Union of India & 3 ors.

..Respondents

Coram: Hon. Shri B.S. Hegde, Member (J)
Hon. Shri M.R. Kolhatkar, Member (A)

APPEARANCE:

Mr. S.B. Repale
Counsel for the applicant

Mr. P.M. Pradhan
Counsel for the respondents

JUDGMENT:
(Per: B.S. Hegde, Member (J))

DATED: 15.9.96

Heard the counsel. The only prayer made by the applicant in this O.A. is to quash and set aside the order of superannuation of the applicant and to direct the respondents to continue the applicant in service after 30.6.1990 and to pay the pay and allowances to the applicant accordingly.

2. As per Annexure A order the applicant has attained the age of superannuation on 30.6.1990 as his date of birth was 7.6.1932. The respondents in their reply have stated that the applicant became member of Defence Quality Assurance Service (Group A) in January 1988 and he was promoted to the grade of SSO-II. The applicant originally belonged to the erstwhile Defence Science Service in the capacity of JSO and was governed by the Defence Science Service Rules 1967. The officers of this service were employed in three organisations viz., Defence Research and Development Organisation (DRDO), Director

General Quality Assurance (DGQA) and Directorate Technical Development and Planning (Air) (DTD&P). Due to difference between the nature of functions and responsibilities of DRDO, DGQA & DTD&P(Air) the Government considered the need for different personnel and selection criteria for these organisations. It was further contended by the respondents that DRDO work involves extensive up-to-date literature survey, analysis of existing information and technology and original basic and applied research and design, whereas, in the inspection organisations like the DGQA & DTD&P(Air), the emphasis is on the inspection work to ensure that defence stores conform to the stipulated standards, defect analysis etc. The Government, therefore, decided to trifurcate the erstwhile D.S.S. to meet the specific requirement of the three organisations into three independent units viz., (i) Defence Research and Development Service (Group A Service), (ii) Defence Quality Assurance Service (Group A Service) and (iii) Defence Aeronautical Quality Assurance Service (Group A Service). After trifurcation these three rules were applicable only to Group A services. Separate rules were framed and issued in 1982 for JSOs (Group B) called Directorate General of Inspection (DGI) Organisation (Junior Scientific Officer) Recruitment Rules, 1982. The applicant originally belonged to the D.S.S. Service. Before trifurcation there was no provision for retirement at the age of 60 years. The age of superannuation of officers was governed by Article 459 of the Civil Service Regulations which stipulated that every Government servant shall retire on attaining the age of 58 years. At the time of trifurcation of the erstwhile DSS the applicant was a JSO holding a Group B post and was not a member of the Group A service

framed after trifurcation. The respondents further contended that the age of superannuation was not enhanced in respect of any of the three services during their initial constitution, and such a provision was neither provided in the DSS rules nor introduced for any of these rules during the trifurcation. It was only at a later stage i.e., during 1985 due to specific requirements of the DRDO organisation that the Government considered it necessary to enhance the age of superannuation in respect of DRDS officers only. At the time of trifurcation the applicant was serving ^{with} as J.S.O. and the applicant was not coming in the purview of any of the three services. Nevertheless, after the constitution of the three services, officers serving in the respective organisations were allowed to exercise clear option under Rule 7(1)(a) and (b) of the respective service rules for any of the Services. A similar provision was also existing in respect of the other two services also. It is not disputed that the ~~DRDO~~ O.M. dated 24.12.1985 issued by the Government of India, Department of Defence Research and Development, enhancing the age of superannuation of scientific and technical personnel of DRDS notwithstanding the provision of Civil Service Regulations, Fundamental Rules or any other rules or orders on this subject, was issued keeping in view the specialised nature of work carried out by the Department of Defence Research and Development and also taking into account the shortage of talented and experienced personnel in the advanced defence technology ^{areas} was not a areas in DRDS. As stated earlier the Member of the Group A service during the trifurcation of the D.S.S. and was only holding a JSO Gr.B post and became a Member of DQAS only in January 1988 and came to be

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governed by the DGI(JSO) Recruitment Rules 1982 when the same was promulgated vide SRO 36/82. That time he could have opted for DRDO which he did not. Therefore, the retirement age according to the rules of DQAS is 58 and there is no ambiguity in this aspect.

During the course of arguments the learned counsel for the respondents drew our attention to the decision given by the Hon; Supreme Court in UNION OF INDIA & ORS. Vs. M.N. KAMBAL & ORS / B.SAMPATH on a similar issue raised before the court wherein the Supreme Court has observed that in the claim petition filed by the respondents before the Tribunal he has categorically admitted that he was given an opportunity to exercise option and as a result of the exercise of option, he was put into one of the trifurcated services where retirement age is 58 years. In such circumstances, respondent is not entitled to the benefit of the judgment delivered by this court in K.T. SASTRI's case rendered earlier.

In the instant case, the applicant was given an opportunity to exercise option. That being so in the light of the ratio laid down by the Supreme Court he could not be allowed to continue beyond the age of 58 years as it is not permissible under the rules. In the circumstances, we see no merit in the O.A. and the O.A. is dismissed with no order as to costs.

M.R.Kolhatkar

(M.R. Kolhatkar)
Member(A)

Hegde

(B.S.Hegde)
Member(J)