

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 1095/94.

Wednesday, this the 15th day of March, 2000.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri B.N.Bahadur, Member (A).

1. B.P.Badgujar,
2. S.K.Mulay,
3. S.B.Chitale,
4. V.G.Anantawar,
5. F.W.Dandekar,
6. B.K.Chitnis,
7. D.K.Atrey,
8. S.A.Gangurde,
9. B.D.Shirsat, and
10. P.K.Chitnis,
C/o. F.W.Dandekar,
F-79,
Nashik - 422 006.

...Applicants.

(By Advocate Ms.Seema Sarnaik)

Vs.

1. Under Secretary,
Ministry of Urban Development,
C-Wing, Nirman Bhavan,
New Delhi - 110 011.
2. Director,
Directorate of Printing,
Incharge of Printing Department,
B-Wing, Nirman Bhavan,
New Delhi - 110 011.
3. General Manager,
Government of India Press,
Gandhinagar,
Nashik - 422 006.

...Respondents.

(By Advocate Shri R.K.Shetty)

Tribunal's Order :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)



This is an application filed by 10 applicants who were earlier Key-Board Operators and redesignated as Photo-type Setters in the Directorate of Printing of the Government of India. The respondents have filed reply opposing the application. During the pendency of the O.A., applicants at Sl.No.1 and 2 have retired from service.

Applicants No. 3 to 10 are still in service. The point raised in the OA is that applicants are entitled to continue in service till they attain the age of 60 years, since they are workmen within the meaning of F.R. 56 (b). During the pendency of the OA, in 1998, the Government has issued an order raising the retirement age of all Central Government employees to 60 years. Therefore, so far as applicants at Sl.Nos. 3 to 10 are concerned, the OA has become infructuous, since they have got the relief by virtue of the 1998 Government Order. But, applicants Nos. 1 and 2 have retired from service during the pendency of this OA at the age of 58 years and their case is that they should have been continued in service till they attain the age of 60 years.

2. The respondents in their reply have taken the position that the applicants designation has been changed to Master Craftsman by a Government Order dt. 26.11.1992 and the necessary Recruitment Rules have also been amended and since Master Craftsman is a Group 'C' post, the applicants are no longer workmen within the meaning of F.R. 56(b) and therefore they are bound to retire at the age of 58 years.

3. The short point for consideration in this case is whether the applicants No.1 and 2 are still workmen within the meaning of F.R.66(b) and are entitled to continue in service till they attain the age of 60 years.

4. The learned counsel for the applicants contended that notwithstanding the change in the name of the job of the applicants as Master Craftsman, there was no change in the pay scale, no change in duties and responsibilities and

therefore, applicants should be treated as workmen, change in the nomenclature notwithstanding. It was therefore, argued that the applicants continued to work as workmen and hence are entitled to the benefit of F.R. 56(b). She also placed strong reliance on an unreported decision of Ernakulam Bench of this Tribunal in O.A. No.1433/93 where by Judgment dt. 14.12.1993 the Ernakulam Bench has held that notwithstanding the change in designation as Master Craftsman, the post of Offset Machineman which was the name of the job prior to re-designation, as a workman and entitled to benefit of F.R. 56(b).

5. On the other hand, the learned counsel for the respondents contended that by virtue of a policy decision and on the basis of a Report of an Inter Departmental Committee of Printing Press, the Government has taken a decision to change the nomenclature and designating of certain posts in the Printing Press Directorate. As a result of the said decision, the applicants job has been re-designated as Master Craftsman. It is therefore, argued that applicants being the holders of the post of Master Craftsman which is a Group 'C' post, they are no longer workmen and hence not entitled to the benefit of F.R. 56(b) and therefore they have to retire at the age of 58 years. The learned counsel for the respondents placed reliance on a Division Bench decision of the Principal Bench of this Tribunal dt. 17.2.1995 in O.A. No.1894/94. The Division Bench of the Principal Bench was concerned with different categories of employees in Printing Press including Key Board Operators with whom we are

concerned in the present OA. The Principal Bench also noticed the Judgment of the Ernakulam Bench and after giving its own reasoning has come to the conclusion that after the change in nomenclature, the applicants before the Principal Bench are no longer workmen and hence not entitled to the benefit of F.R. 56(b), so far as the age of retirement is concerned.

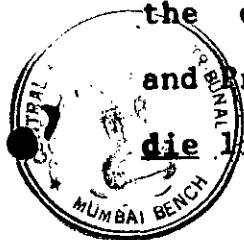
6. We have noticed the rival contentions addressed before us and the two decisions of two different Benches of the Tribunal one of Ernakulam Bench of this Tribunal and one of the Principal Bench of this Tribunal where conflicting views are taken. Judicial propriety demands that we should not go into the question of the correctness of either of the decisions, but to refer the question to a Larger Bench for resolving the conflict between the two decisions. We also give liberty to both sides to produce additional documents in support of their contentions before the date of hearing is fixed by the Full Bench.

7. For the above reasons, we are referring the following question for consideration before the Full Bench:

(1) Whether the Key Board Operators subsequently designated as Photo-type Setters and who are again redesignated as Master Craftsman are workmen within the meaning of F.R. 56(b) and entitled to be continued in service till they attain the age of 60 years as held by the Ernakulam bench of the Tribunal in O.A. 1433/93

or they are no longer workmen and not entitled to continue in service beyond 58 years as held by the Principal Bench in OA 1894/94?

The Registry is directed to make a reference to the Hon'ble Chairman for constituting a Full Bench for deciding the conflict between the two decisions viz. Ernakulam Bench and Principal Bench. Till then, the O.A. is confined to sine die list.



S.D/-
(B.N.BAHADUR)
MEMBER(A)

S.D/-
(R.G.VAIDYANATHA)
VICE-CHAIRMAN

B.

Certified True Copy
Date 28.3.2004

Bomby
Section Officer
Central Admn. Tribunal
Bombay Bench.