

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 39/94

Date of Decision: 24.6.99

Shri Antonie Joseph Mathews. Applicant.

Shri D. V. Gangal Advocate for  
Applicant.

Versus

Union of India & Anr. Respondent(s)

Shri V. S. Masurkar Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri Justice K. M. Agarwal, Chairman.

Hon'ble Shri R. K. Ahooja, Member(A).

(1) To be referred to the Reporter or not? *Yes*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *No*

abp.

*R. K. Ahooja*  
(R. K. AHOOJA)  
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GULE STAN BLDG. NO. 6, 4th FLR, PRESCOT RD, FORT,  
MUMBAI - 400 001.

ORIGINAL APPLICATION NO.39/94.

DATED THE 24 DAY OF JUNE, 1999.

CORAM: HON'BLE SHRI JUSTICE K.M. AGARWAL, CHAIRMAN.

HON'BLE SHRI R.K. AHOJA, MEMBER (A).

Shri Antonie Joseph Mathews,  
residing at  
5/1286, S.M. Road, Antop Hill,  
Bombay - 400 037 and working as  
Supervisor Grade-I,  
Industrial Canteen,  
Naval Dockyard,  
Bombay - 400 023.

... Applicant.

By Advocate Shri D.V. Gangal.

v/s.

1. Union of India, through  
the Flag Officer,  
Commanding-in-Chief,  
Western Naval Command,  
Bombay - 400 023.

2. The Admiral Superintendent,  
Naval Dockyard,  
Bombay - 400 023.

... Respondents.

By Advocate Shri V.S. Masurkar

I O R D E R I

I per Shri R.K. Ahoja, Member (A) I

The applicant was appointed as a Canteen Manager on 15/6/81 by order of the Admiral Superintendent, Naval Dockyard, Bombay. The applicant submits that his conditions of service were governed by the Departmental Canteen Employees (Recruitments and conditions of service) Rules 1980. As per rule-11 of the said rules, the age of retirement is the afternoon of the last day of the month in which he attains the age of sixty years.

2. The grievance of the applicant is that contrary to the aforesaid provision in the rules, the respondents have retired him from service on attaining the age of 58years on 31/1/94. As his date of birth is 19/1/36, he was, he claims, entitled to continue in service till 31/1/96.

3. This OA was filed on 13/1/94. After hearing the parties, the Interim Relief granted on 24/1/94 was vacated by the Tribunal. The applicant has retired from service on 31/1/95.

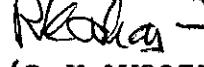
4. The respondents in their reply have submitted that the applicant is governed as per appointment order dated 15/1/81, containing the conditions of service applicable to employees of the Industrial Canteen, Naval Dockyard, Bombay. Such Industrial Canteens are set up as per Section-46 of Factories Act, 1948. Therefore, the Departmental Canteen Rules relied upon by the applicant are not applicable to Canteens established under the aforesaid section of the Factories Act. The applicant under the rules applicable to him is governed by the rules applicable to Group 'C' non ministerial, Central Government Employees for whom the age of retirement at the relevant point in time was 58years.

5. We have heard the counsel. We find that as per general rules quoted in the Swamy's Compilation of Departmental Canteen, 4th edition and based on compilation of Administrative instructions on departmental canteen in offices and Industrial Establishment, Canteens set up under section-46 of the Factories Act, being run under Industrial Establishment of the Government, are also required to follow the departmental Canteen Rules unless any other Ministry/Department have framed separate orders for such canteens.

6. It is not denied that the Naval Dockyard Industrial Canteen has been set up under Section-46 of Factories Act. Further, as per the notification dated 19/3/86 issued by Ministry of Defence (Copy at Annexure R-III) there are separate Canteen Employees Recruitment Rules for the Naval Dockyard, the Departmental Canteen Employees (Recruitment and conditions of service) 1980 therefore do not apply to employees of Industrial Canteen of the Naval Dockyard, Bombay.

7. As per the notification dated 19/3/86, the classification of the employees of the Defence Factory Canteen is general service Group 'C' non ministerial. For Group 'C' officials, Central Government servants, the age of retirement till the recent amendment dated 13/5/98 was 58 years. In view of this position, the respondents rightly retired the applicant on attaining the age of 58 years. This position is also clarified by the Government of India, Ministry of Defence OM dated 19/2/1982 (Copy at Annexure R-I) by respondents.

8. In the light of the above discussions, we find no merit in the OA, the same is hereby dismissed. There will be no orders as to costs.

  
(R.K.AHOOJA)  
MEMBER(A)

abp.

  
(K.M.AGARWAL)  
CHAIRMAN