

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 704/97

Date of Decision: 29.1.98

**Shri D.T. Misal** Applicant.

**Shri S.P. Saxena** Advocate for  
Applicant.

Versus

**Union of India and others** Respondent(s)

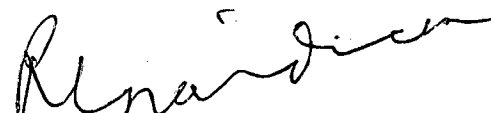
**Shri R.K. Shetty** Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. **Justice R.G. Vaidyanatha**, Vice Chairman

Hon'ble Shri. **M.R. Kolhatkar**, Member (A)

- (1) To be referred to the Reporter or not? *md*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *md*

  
(R.G. Vaidyanatha)  
Vice Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH 'GULESTAN' BUILDING No:6  
PRESCOT ROAD, MUMBAI:1  
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Original Application No.704/97

Friday the 29th day of January 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri M.R. Kolhatkar, Member (A).

D.T.Misal  
Residing at  
Bungalow No.101  
D-III Area,  
National Defence Academy  
Khadakwasla, Pune.

... Applicant.

By Advocate Shri S.P. Saxena.

V/s.

Union of the India  
Through the Secretary,  
Ministry of Defence.  
New Delhi.

The Commandant  
National Defence Academy  
Khadakwasla,  
Pune.

The Registrar  
National Defence Academy  
Khadakwasla,  
Pune.

... Respondents.

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an application under Section 19 of the Administrative Tribunals Act 1985. Reply has been filed by the respondents. We have heard both the counsels.

2. The applicant who is working as Lecturer in the Department of National Defence Academy, Khadakwasla, Pune has approached this Tribunal alleging that he is entitled to continue in service till he attains 60 years of age and not till the age of 58 years as alleged by the respondents, but the respondents have stated in the reply that the

applicant is entitled to continue in service till 58 years of age and not till 60 years of age.

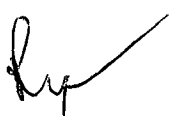
3. At the time of hearing both the counsels have stated that the matter is covered directly by an earlier decision of this Tribunal dated 23.4.97 in O.A. 182/97. In fact the respondents have stated in para 14 of the reply that the applicant was continued in service though he had attained the age of 58 years, in view of the decision of this Tribunal dated 23.4.97 in O.A. 182/97.

4. In O.A. 182/97, a Division Bench of this Tribunal of which one of us was Member (Shri M.R. Kolhatkar) has held that age of superannuation <sup>for</sup> including Lecturers in the National Defence Academy as 60 years and not 58 years as alleged by the department. The learned counsel for the respondents submits that the respondents have already filed a Writ Petition in the High Court challenging the correctness of the judgement of the said Division Bench.

It is brought to our notice that the judgement of the Tribunal has not been stayed by the High Court. Therefore the judgement still holds good.

5. In our view, in the light of the judgement of this Tribunal in O.A. 182/97, the applicant is entitled to continue in service till he attains the age of 60 years.

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6. In the result, the application is disposed of at the admission stage by declaring that the applicant is entitled to continue in service till he attains the age of 60 years. The order dated 17.1.96 passed by the respondents in so far as the applicant is concerned, <sup>is</sup> ~~be~~ hereby quashed. In the circumstances of the case there should be no order as to costs.

7. M.P. 469/97 is no longer survive for consideration and accordingly disposed of.

M.R. Kolhatkar  
(M.R. Kolhatkar)  
Member (A)

R.G. Vaidyanatha  
(R.G. Vaidyanatha)  
Vice Chairman

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