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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 45 of 1990

Date of Order:

J.George

..Applicant

Versus

The Union of India, represented
by its Secretary, Department of Atomic
Energy, New Delhi.

2. The Administrative Officer,
Nuclear Fuel Complex,
Hyderabad.
3. The Chief Executive,
Nuclear Fuel Complex,
Department of Atomic Energy,
Government of India, Hyderabad.

..Defendants

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For Applicant: MR.P.S.N.PRASAD, *Advocate*.

For Respondents: MR.E.MADANMOHAN RAO, Addl.CGSC for the
Department

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C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

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(Judgment delivered by Shri D.Surya Rao, Member (Judicial))

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1. The applicant herein is working as a Driver in the Nuclear Fuel Complex. He states that he has been driving eversince 1971. He was declared as an Industrial Permanent Workmen with effect from 11-11-1974 by an order dated 28-1-1978 issued by the 2nd respondent. He contends that under the Standing orders, para 6 lays down the terms and conditions of superannuation, ~~and~~ which states that the age of superannuation in the case of workmen

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engaged on clerical work shall ordinarily be 58 years and in all other cases 60 years. The Management, however, reserves the right to retire a workmen including a workmen engaged on clerical work, after he has attained the age of 55 years of service. He further claims that he is governed by the pension scheme as per standing orders and under the said scheme he is entitled to continue till 60 years. This is on the basis that all Industrial permanent workmen of Nuclear Fuel Complex, who are governed by pension scheme retire on superannuation only on attaining the age of 60 years. The applicant, therefore, should be retired only after gaining 60 years. He states that in two similar cases of Drivers who are senior to the applicant, they were sought to retire at the age of 58 years by the respondents. The said two Drivers approached the Hon'ble High Court of AP by way of W.P.Nos.4508 and 4603 of 1983. The High Court held that the lawful age of these Drivers is 60 years and not 58 years. It was further directed in O.A.No. 807/87 by this Tribunal that the age of superannuation of a driver is 60 years and not 58 years. Despite these orders, the 2nd respondent by a letter dated 18-3-1989 issued a notice to the applicant stating that he is due to retire on 28-2-1990. The applicant contends that he will be attaining the age of 60 years only on 28-2-92 and he is entitled to continue in service till that date. He, therefore, filed the present application for a direction to the 2nd respondent to retire him only on 28-2-1992 and for quashing of impugned notice dated 18-3-1989.

To:

1. The Secretary, (Union of India) Department of Atomic Energy, New Delhi.
2. The Administrative officer, Nuclear Fuel complex, Hyderabad.
3. The Chief Executive, Nuclear Fuel complex, department of Atomic Energy, Government of India, Hyderabad.
4. One copy to Mr. P. S. N. Prasad, Advocate, Plot No. 29, Revenue Board Colony, Malakpet, Hyderabad.-36.
5. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
6. One spare copy.

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2. On behalf of the respondents a counter has been filed denying the various contentions and claims of the applicant. It is contended that under FR 56 the applicant should retire at the age of 58 years and that the note to the FR 56 which provides for retirement at the age of 60 years in the case of Artisans, Workers, would not apply to the applicant. Hence, the respondents oppose this application.

3. We have heard the learned counsel for the applicant and Shri E.Madan Mohan Rao, Addl. Standing Counsel for the Department, who as Sri. Madan Mohan Rao represents that ^{against} the judgment and order in O.A. 807/87 an appeal has been preferred to the Supreme Court. ^{at}

4. The matter is covered by the decision of this Tribunal in O.A.No.807 of 1987 (B.R.Shivaram Vs Union of India) dated 24-10-1989. Following the afore-said decision, this application is allowed and the impugned notice No.NFC/PA.VI/TPT/2318/382, dated 18-3-1989. is quashed. The respondents are directed to continue the applicant in service till he attains the age of superannuation of 60 years of age i.e. 28-2-1992.

No costs.

(Dictated in open court)

(B.N.JAYASIMHA)
Vice Chairman

(B.N.JAYASIMHA)
Vice Chairman


(D. SURYA RAO)
Member (I)

Re. 28 Th February, 1990

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1990. *John C. Bowers*
DEPUTY REGISTRAR (7) *John C. Bowers*

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