

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO. 710 /95

DATE OF JUDGMENT: 22-6-95

BETWEEN:

B. Kanna Rao

.. Applicant.

and

1. Secretary,
Ministry of Defence, Sena Bhavan,
New Delhi.
2. Flag Officer Commanding-in-Chief,
Head Quarters, Eastern Naval Command,
Visakhapatnam-14.
3. Admiral Superintendent,
Naval Dockyard,
Visakhapatnam.

... Respondents.

COUNSEL FOR THE APPLICANT: SHRI K. Sudhakar Reddy

COUNSEL FOR THE RESPONDENTS: SHRI N.R. Devraj,
Sr./Adm^{xxx}l.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN,
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD.....

O.A.No.710/95.

Date: 22-6-1995.

J U D G M E N T

X as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

Heard Sri K.Sudhakar Reddy, learned counsel for the applicant and Sri N.R.Devaraj, learned counsel for the respondents.

2. The applicant herein joined as an Industrial Worker, Sheet Metal Plater Grade-II on 5.10.1974 in Naval Dockyard, Eastern Naval Command, Visakapatnam. He was promoted as Senior Chargeman (Plater) on 22.12.1984. It is submitted that the post of Senior Chargeman is a non-industrial post. However, the applicant's initial appointment was to industrial cadre. The age of superannuation for the employees in industrial cadre is fixed at the age of 60 and in respect of non-industrial cadre, the said age of superannuation is fixed at the age of 58. As the applicant herein is a Senior Chargeman and the said post of Sr. Chargeman is non-industrial cadre, the concerned authority issued an office note No.PES/3800/BAR dt. 6.6.1994 intimating the applicant herein that he is due for retirement on attaining the age of superannuation with effect from 30.6.1995. The contention of the applicant that ~~he~~ as he belong to Industrial cadre he should have been allowed to work upto the age of 60 years and that he cannot be superannuated after completion of 58 years as per the Note issued by Respondents dt. 6.6.1994. It is further submitted that he is covered by FR 56(b) and CSR 459(b) in regard to the terms and conditions of service for his superannuation. ^{his superannuation at the age of 58} Though he represented against ~~it~~ by representation dt. 17.2.1995 requesting the respondent authorities to retain him in service upto the age of 60 years

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by treating him as Industrial Worker, his request was turned down ~~and~~ by letter dt. 13.3.1995x that he will retire at the age of 58 years. Aggrieved by the above, he has filed this OA for a declaration that the letter No.PES/3800/BKR dt. 6.6.1994 is illegal, arbitrary, void ab initio and unconstitutional and consequently to direct the respondents authorities to continue the applicant to be part of the Industrial Establishment on promotion as Senior Chargeman and consequently retire him from service on superannuation only after attaining the age of 60 years in accordance with CSR 459(b) and FR 56(b) with all consequential benefits.

3. The Principal Bench in a similar case { LAL CHAND and Ors. Vs. UNION OF INDIA } directed the respondents therein to treat the applicants therein as a part of ^{even} Industrial Establishment/on their promotion as Chargeman Senior Chargeman and consequently and consequently shall retire them from service on superannuation only after they attain the age of 60 years in accordance with CSR 459(b) and FR 56(b). But, that direction was stayed by the Supreme Court in SLP No.8529-31 of 1990 by order dated 3.9.1990. When another Chargeman of 505, Army Base Workshop EME, Delhi Cantt. ^{on the file of Principal Bench} filed OA No.626/90/to retire him after attaining the age~~x~~ of 60 years treating him as an Industrial Worker as directed in the case of LAL CHAND and Others, the respondents in that OA submitted that as the SLP in Lal Chand's ^{case} is pending the case cannot be decided in favour of the applicant therein. However, the Principal Bench disposed of the said OA 626/90 by orders dt. 8.7.1994 directing that the applicant therein is entitled for the benefits etc. as in the case of LAL CHAND and Others (OA 1709/89) decided by the ~~Principal Bench~~

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Principal Bench on 30.9.1990 if the aforesaid judgment is upheld by the Supreme Court and the SLP filed by Union of India against the said judgment is dismissed. However, it was further held by the Principal Bench in that OA that in case the SLP is allowed, the OA 626/90 stands dismissed.

4. The learned counsel for the applicant submitted that a similar direction, as was given in OA 626/90 on the file of the Principal Bench can also be given in this case as the applicant herein is similarly situated as the applicant in OA 626/90. The learned standing counsel ~~for~~ has also expressed no objection to the above course suggested by the applicant's counsel. In view of the above, ^{adirection has to be given} ~~the applicant herein has to be retired~~ ^{the applicant} when he attain the age of 58 years in terms of the impugned order. However, he will get the monetary benefits if the judgment in Lal Chand's case is upheld by the Apex Court.

5. In the result, the following direction is given:-

In the conspectus and circumstances of the case, the applicant has to be retired on attaining the age of 58 years. However, the applicant shall be entitled to all the benefits etc. of the case of Lal Chand and others Vs. Union of India (OA 1709/89 on the file of Principal Bench) decided on 30.3.1990 if the aforesaid judgment is upheld by the Apex Court and SLP bearing No.8529-31/90 filed by Union of India against that judgment is dismissed. In case the Apex Court allows the SLP and directs that Senior Chargemen even if they are initially appointed in industrial cadre are to superannuate at the age of 58 years, this OA stands dismissed. In case the SLP referred to above is decided by any other modified order, other than the orders given by the Principal Bench, then this OA shall

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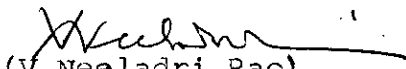
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also be disposed of in terms of the orders which may be passed by the Apex court in the aforesaid pending SLP filed by Union of India. If any clarification is required by either parties in regard to the direction given in this OA after the SLP referred to above is disposed of, a M.A. may be filed ^{in this off} for obtaining necessary clarifications.

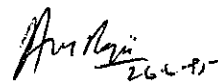
6. The OA is ordered accordingly at the admission stage itself. No costs. /


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated: ^{22nd} June, 1995.

Grh.


Deputy Registrar (J) CC

To

1. The Secretary,
Ministry of Defence,
Sena Bhavan, New Delhi.
 2. The Flag Officer, Commanding-in-Chief,
Head Quarters, Eastern Naval Command,
Visakhapatnam-14.
 3. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.
 4. One copy to Mr. K. Suchakar Reddy, Advocate, CAT, Hyd.
 5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyd.
 6. One copy to Library, CAT, Hyd.
 7. One spare copy.
- with 07 copy

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED --- 22/6 --- 1995.

~~ORDER~~/JUDGMENT:

M.A./R.A./C.A.No.

OA.No. in

TA.No.

710/95

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No.order as to costs.

no spare copy

