

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

O.A.NO. 380/95

DATE OF JUDGMENT: 27-4-95

BETWEEN:

K. Venkateswara Rao : Applicant

and

1. The General Manager  
Telecom District  
Vijayawada 520010

2. The Chief General Manager  
Telecommunications AP  
Hyderabad 500001

3. The Chairman  
Telecom Commission  
(rep. Union of India)  
Sanchar Bhawan  
New Delhi 110001

: Respondents

COUNSEL FOR THE APPLICANT: SHRI N.R. Srinivasan, Advocate

COUNSEL FOR THE RESPONDENTS: SHRI K. Bhaskar Rao  
Sr./Addl.CGSC

CORAM:

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

CONTD....

ORDER

Admit.

2. The applicant herein is a Technical Supervisor, in the pay scale of Rs.1400-2300.

3. The applicant herein was informed that he had to retire on 30-4-1995 as he would be attaining 58 years in April, 1995. When the request for the applicant that he had to be retired on attaining the age of 60 years as per FR 56(b), was not acceded to, this OA was filed praying for a direction to the respondents to continue him in service till he attains the age of 60.

4. FR 56(a) and the note thereon which are relevant for consideration of this OA are as under :

"F.R.56(a) Except as otherwise provided in this rule, every Government servant shall retire from service on the afternoon of the ~~last~~ day of the month in which he attains the age of fifty-eight years.

(b) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

Note :- In this clause, a workman means a highly skilled, skilled, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment."

5. If the applicant had to be held as workman as laid down in FR 56(b), then the contention for the applicant has to be accepted.

6. In 1995(1) SCSLJ 261 ( State of Orissa & Others vs Adwait Charan Mohanty), the Apex Court had the occasion to consider the scope of Rule 71(a) of the Orissa Service code with reference to the second <sup>proviso</sup> clause therein which reads as Under :

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"Rule 71(a) provides superannuation which is relevant for the purpose of this case reads thus :

Except as otherwise provided in the other clauses of this rule the date of compulsory retirement of a Government servant, except a ministerial servant who was in Government service on the 31st March, 1939 and Class IV Government servant, is the date on which he or she attains the age of 58 years subject to the condition that a review shall be conducted in respect of the Government servant in the 55th year of age in order to determine whether he/she should be allowed to remain in service up to the date of the completion of the age of 58 years or retired on completing the age of 55 years in public interest."

"Provided further that a workman who is governed by these rules shall ordinarily be retained in service upto the age of 60 years. He may, however, be required to retire at any time after attaining the age of 55 years after being given a month's notice or month's pay in lieu thereof, on the ground of impaired health or or being negligent or inefficient in the discharge of his duties. He also may retire at any time after attaining the age of 55 years, by giving one month's notice in writing.

Note : For this purpose, "a workman" means a highly skilled, skilled or semi-skilled and unskilled artisan employed on a monthly rate of pay in any Government establishment."

The note was subsequently amended with effect from October 13, 1989, which reads

"Note : For this purpose, "a workman" means a highly skilled, skilled, semi-skilled or unskilled artisan employed on a monthly rate of pay in any industrial or workcharged establishment."

7. It may be noted that proviso 2 to Rule 71(a) of Orissa Service Code is similar to FR 56(b). The amended note to proviso 2 of Rule 71(a) of Orissa Service Code is identical with the note to FR 56(b).

8. Rule 52(A) of Orissa Service Code was also referred to in the above judgement. After dealing with all the aspects, it was held in para 14 as under :

"As stated earlier, the object appears to be to bring artisan-workman governed by the statutory rules but at part with Class IV employee and he alone is required to retire on

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Abd

completion of 60 years of age but not the gazetted or non-gazetted Class III government servants or even in Class II or I."

9. It is not in controversy that the semi skilled and unskilled artisans are in Class IV, while the skilled and highly skilled artisans are in class III. Further the Technical Supervisors in the scale of Rs.1400-2300 and 1600-2600 are in pay scales higher to the pay scales of highly skilled <sup>Grade</sup> Class I.

10. It is further submitted for the respondents at the time of arguments that even those who are in the category of unskilled, semiskilled, skilled and highly skilled in Telecom have to be held as Artisans, as the workman referred to under FR 56(b) reads that the note therein includes only artisans from the category of unskilled <sup>highly</sup> upto skilled, and the categories above highly skilled are not within the ambit of workman referred to under FR 56(b) read with Note thereon.

11. It is not in controversy that those who are called as artisans for the applicant and who are not said to be artisans according to the respondents as per their own preliminary reply statement, are in the categories of unskilled, semi skilled, skilled, highly skilled grade II & I. Those are the designations in regard to the various trades in the industrial or work charged establishment of the Government. Even on the basis of the note to FR 56(b) it had to be stated that Technical Supervisors who are in the Grade higher to highly skilled grade I <sup>do</sup> not come within the purview of workman referred to in FR 56(b), for only artisans in the category of highly skilled and below are within the ambit of workman.

12. As already observed, as per the Apex Court, even the Artisans in Clause III also <sup>do</sup> not come within the scope

of workman as per note to second proviso to Rule 71(a) of Orissa Service Code. When the definition of workman as per the note under FR 56(b) and the amended note under second proviso to Rule 71(A) of Orissa Service Code are identical whether the same decision equally holds good in regard to skilled or highly skilled is a matter that need not be considered for disposal of this OA.

13. On the basis of what we stated in para 11, we feel that *prima-facie* case is not established for the applicant that he comes within the purview of FR 56(b).

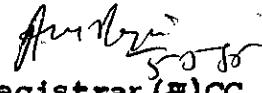
14. So, we feel it not a case where interim direction has to be given as prayed for. But as the applicant is going to retire shortly it is just and proper to expedite hearing.

15. List the OA for final hearing on 3-7-1995 immediately

  
(R. Rangarajan)  
Member (Admn.)

  
(V. Neeladri Rao)  
Vice chairman

Dated : April 27, 95  
Dictated in Open Court

  
Deputy Registrar (S)CC

To

1. The General Manager, Telecom District, Vijayawada-10.
2. The Chief General Manager, Telecommunications, A.P. Hyderabad-1.
3. The Chairman, Telecom Commission, Union of India, Sanchar Bhavan, New Delhi-1.
4. One copy to Mr. N. R. Srinivasan, Advocate CAT. Hyd.
5. One copy to Mr. K. Bhaskar Rao Addl. CGSC. CAT. Hyd.
6. One spare copy.

pm.

  
Anil Jaiswal  
5/5/95

Received  
on 5/5/95  
TYPED BY  
COMPARED BY at. 5.00 PM CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

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

AND

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

DATED - 27-4-1995.

ORDER/JUDGMENT:

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

O. A. No.

in  
380/95

T. A. No.

(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.

Central Administrative Tribunal  
DESPATCH

10 MAY 1995

HYDERABAD BENCH