

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 691 of 2003

Jabalpur, this the 23rd day of June, 2004.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

N.P. Samdariya, aged 58 years,  
S/o Bhaiyalal Samdariya, Ex.Sr.  
Monument Attendant, Resident of  
1635, Behind Doctor's Colony,  
Medical College, Garha, Jabalpur.

APPLICANT

(By Advocate - Shri M.B. Saxena)

VERSUS

1. Union of India, through  
Secretary, Ministry of Human  
Resources(Science and Technology,  
Department) New Delhi 110 011.
2. The Director General Archaeological,  
Archaeological Survey of  
India, Janpath, New Delhi.
3. The Superintending Archaeological  
Office of the Superintending  
Archaeological(A.S.I.) Bhopal  
Circle, G.T.B. Complex, T.T.Nagar,  
Bhopal(M.P.) 462 001.
4. Archaeological Survey of India,  
Sub-Circle, Bhatialiya, Tiraha,  
Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the  
following main reliefs :-

"(I) to quash the impugned order dated 4.6.2002  
(Annexure-A-1) declaring the same as contrary to the  
provisions of law.

(II) the respondents be directed to reinstate the  
applicant with full back wages including interest".

2. The brief facts of the case are that the applicant  
was appointed as Monument Attendant with effect from 1.9.1971  
and he has been working as such since then. The respondents  
vide order dated 4.6.2002 have imposed the penalty of compulsory  
U/r 11(VII) of the CCS(CCA) Rules, 1965  
retirement from service/on the applicant. Hence, he has filed  
this OA.

3. Heard the learned counsel for the parties and perused  
the records.

4. The learned counsel for the applicant has stated that in this case no charge sheet has been issued to the applicant under the CCS(CCA) Rules and no enquiry has been held and no opportunity has been given to the applicant. Thus, the principles of natural justice have not been followed by the respondents. He has further submitted that no prescribed procedure has been followed / and as such in the order passed by the respondents on 4.6.2002 is not in accordance with laid down procedure and law. Therefore, it is not sustainable in the eye of law and is liable to be dismissed.

5. On the other hand the learned counsel for the respondents has stated that the applicant has completed about 30 years qualifying service and has been retired under Rule 48/CCS(CCA) Pension Rules, 1972. and he has submitted that it's just out of ignorance the respondents have issued the order dated 4.6.2002 without following prescribed procedure required under Rule 48 of CCS(CCA) Pension Rules, 1972. He has further submitted that that is case is barred by limitation.

6. We have given careful consideration to the rival contentions made by both the parties and we find that the applicant had been working as Monument Attendant since 1971 and he had completed about 31 years of service with the respondents. In this case no charge sheet has been issued to the applicant and no enquiry has been held against the applicant. He has been imposed the penalty of compulsory retirement without following the laid down procedure and without giving him any opportunity of hearing and also not following the Principles of natural justice. Therefore, the order passed by the respondents dated 4.6.2002 is not sustainable in the eye of law and liable to be dismissed. The contention of the learned counsel for the respondents that the intention of the

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respondents were to retire the applicant under Rule 48 of CCS(CCA) Pension Rules, 1972 does not ~~correct~~ appear to be correct. According to under Rule 48 (b) CCS(CCA) Rules, 1972 " the Appointing Authority may also give a notice in writing to a Government servant at least three months before the date on which he is required to retire in the public interest or three months' <sup>pay</sup> and allowances in lieu of such notice:" In this case no such procedure has been followed by the respondents. Therefore, the order dated 4.6.2002 has been passed by the respondents whereby the penalty of compulsory retirement has been imposed on the applicant is not sustainable in the eye of law. Accordingly the order dated 4.6.2002 is quashed and set aside. The respondents are directed to grant all consequential benefits to the applicant within a period of 3 months from the date of receipt of copy of this order. However, the respondents are at liberty to take appropriate action against the applicant in accordance with Rules and law.  
With the above directions , the OA is disposed of. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

कृष्णकल सं ओ/न्या..... जबलपुर, दि.....  
 प्रतिलिपि वर्चो चित्त:-

- (1) समिति, टाटा यन्त्रालय वारा एसोसिएशन, जबलपुर
- (2) आजंकल एस/क्रिएटि/क्यु..... के वारंसल
- (3) प्रशासनी ई/वी/एस/क्यु..... के काउंसल
- (4) बंधुवता, अंग्रेज़ा, जबलपुर यात्र्याईठ
- (5) सुधारा एवं आवश्यक कार्यवाही देते

~~Fiscal~~  
5/7/01