

Central Administrative Tribunal  
Jabalpur Bench at Gwalior

OA No.902/2000

Gwalior this the 30th day of October, 2003.

Hon'ble Mr. Shanker Raju, Member (J)

Hon'ble Mr. Sarveshwar Jha, Member (A)

B.P. Gupta

-Applicant

(By Advocate None)

-Versus-

Union of India & Another

-Respondents

(By Advocate Shri P.N. Kelkar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J)

The issue raised is no more res integra having attained finality by CWP No.1699/1998 by the High Court of Delhi in N.S. Parwar & Others v. Union of India & Another decided on 16.3.1999 wherein having regard to the decision of the Apex Court in SLP (C) No.4528/93 striking down the OM of respondents already retired persons had been deemed to have retired at the age of 60 years with all consequential benefits.

2. Applicant relies on the decision of S. Srinivasan v. Union of India & Another OA-168/98 decided by the Hyderabad Bench on 17.8.99. Applicant who had earlier come to this Court was given liberty to assail his grievance after the Apex Court decides the case. As the Apex Court has granted leave in CA-4488/90 in Union of India v. O.P. Gupta by striking down the classification in so far as the benefit of enhancement of age of superannuation it is contended that the decision would not run prospectively and as the memorandum has been struck down in violation of Articles 14 and 16 of the Constitution of India it relates back to the date of notification which was issued at the time when applicant was in service.

3. On the other hand, respondents assails the prospectivity of Apex Court's decision and it is stated that as the notification has been set aside only in 1996 applicant who had earlier retired in 1993 would not be entitled to have the benefits.

4. We have carefully considered the rival contentions of the parties and perused the material on record. In so far as prospectivity of the Apex Court decision is concerned, in absence of any direction to this effect by the Apex Court as the provision has been set aside and the classification being irrational in the light of Articles 14 and 16 of the Constitution of India it relates back to the date of memorandum.

5. The aforesaid though raised by the respondents in S. Srinivasan's case (supra) was rejected. The same ground also rejected in OA-347/98 by the Hyderabad Bench on 17.8.99 in G. Sankaran v. Union of India & Anr. decided on 17.8.1999. We respectfully follow the same.

6. As we find no justification to deprive applicant of benefit of extended date of superannuation being similarly circumstance we hold that the decision of the Apex Court would apply retrospectively as well.

7. In the result, for the foregoing reasons, OA is allowed. Applicant is deemed to have retired on attaining the age of 60 years w.e.f. 30.9.1993 and the respondents are further directed to regularise the period as per rules and revise the pension and pensionary benefits of applicant with all consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.

*Sarveshwar Jha*  
(Sarveshwar Jha)  
Member (A)

*S. Raju*  
(Shanker Raju)  
Member (J)

पृष्ठान्त सं ओ/ज्या..... दि.....

संख्या.....

(1) सचिव, राज्य सरकार, राजधाम, राजपुर, राजपुर

(2) सचिव, राज्य सरकार, राजधाम, राजपुर, राजपुर

(3) सचिव, राज्य सरकार, राजधाम, राजपुर, राजपुर

(4) सचिव, राज्य सरकार, राजधाम, राजपुर, राजपुर

सचिव, राज्य सरकार, राजधाम, राजपुर, राजपुर

*SN Bhagwal Adv.*  
*PN Kellkar Adv.*  
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*PN Kellkar Adv.*  
*SN Bhagwal Adv.*  
*PN Kellkar Adv.*

*Received*  
*6.11.03*