

30/100  
3  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Karla  
31.12.98

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

No: 246/96

Sri A. Pata  
vs

Union of India & ors. Respondent(s)

Mr. Dr. Sanjoy Chanda Advocates for the applicant(s)

Mr. S. Ali, Sr. C.G.S.C. Advocates for the Respondent(s)

Office Notes Date Courts' Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
IPO/BD No 444805  
Dated ... 10.10.96

6 Dr. Sanjoy  
B. Registered 5/10  
15/10

16.10.96

Mr M. Chanda for the applicant.  
Mr S. Ali, Sr. C.G.S.C. for the  
respondents.

Heard Mr Chanda for admission and  
perused the contents of the application  
and relief sought. Application is  
admitted. Issue notice on the  
respondents by registered post. Written  
statement within six weeks. List for written  
statement and further order on 29.11.96.  
Heard counsels on interim relief  
prayer. The retirement of the applicant  
in pursuance of Notice No.4585/A-  
22/CGWB/NER/Estt/85 dated 27.8.1996  
(Annexure-2) will be subject to the  
result of this application.

11/96

Notice issued to  
coercive parties  
M.C. No. 37/3 dt 13.11.96.

6  
Member

trd

m/  
17/10

29-11-96

Mr. M. Chanda counsel for  
the applicant. Written statement  
has not been submitted.

List for written statement  
and further order on 30-12-96.

6  
Member

lm  
m/  
29/10

Service reports are still awaited.  
Statement has not been filed.

Service Reports are still awaited.  
Statement has not been filed.

26/12

O.A. 246796.

17-1-97  
written statement has  
not been filed.

30.12.96 Mr J.L.Sarkar for the applicant  
Mr S.Ali, Sr.C.G.S.C for the respondents.

Written statement has not been submitted.

List for written statement and  
further orders. on 20.1.1997.

6  
Member

pg

20.1.97

19-2-97  
9 Services reports  
are still awaited.

Learned counsel Mr M. Chanda for  
the applicant. Written statement has not  
been submitted.

List for written statement and  
further orders on 17.2.97.

6  
Member

pg  
M  
17/2

17.2.97

Two weeks time granted to Mr S. Ali,  
learned Sr. C.G.S.C., to file written statement.

This case relates to Agartala. The case  
will be taken up at Agartala. The date will be  
notified later.

6  
Member

Vice-Chairman

nkm

M  
17/2

16.12.98  
(Agartala)

Heard counsel for the parties.  
Hearing concluded. Judgment delivered  
in open Court, kept in separate sheets.

The application is dismissed. No  
order as to costs.

6  
Member

Vice-Chairman

pg

18/2/98  
Copies of the Judgment  
issued to the parties  
through Regd. m/s A.P.  
vide D.N.O. 262-266  
Dtd. 20.1.99.

H.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::::GUWAHATI-5.

O.A.No. 246 of 1996.

DATE OF DECISION.....16.12.1998.....  
(At Agartala)

Shri Anugrah Patra (PETITIONER(S))

Sri M.Chanda

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sri A.K.Choudhury, Addl.C.G.S.C

ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 246 of 1996.

Date of Order : This the 16th Day of December, 1998.  
(At Agartala)

Justice Sri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Anugrah Patra,  
Son of late Premdarshan Khosla,  
Daleshwar,  
Road No. 11, Agartala-7.  
Tripura.

..... Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India  
represented by the Secretary  
to the Govt. of India,  
Central Ground Water Board,  
Ministry of Water Resources,  
Shram Shakti Bhawan,  
New Delhi.
2. The Chairman,  
Central Ground Water Board,  
Shram Shakti Bhawan,  
New Delhi.
3. The Chief Engineer,  
Central Ground Water Board,  
NH-IV, Faridabad,  
Haryana.
4. The Director (Admn.)  
Central Ground Water Board,  
N.H. IV, Faridabad,  
Haryana.

..... Respondents.

By Advocate Sri A.K.Choudhury, Addl.C.G.S.C.

O R D E R

BARUAH J. (V.C)

In this application the applicant has prayed for a direction to allow him to continue his services till he attains the age of 60 years in terms of F.R. 56(b) and also prays for setting aside the Annexure-2 impugned letter dated 27.8.1996. The facts of the case are :-

*D2*  
The applicant was initially appointed Cleaner in the year 1961 under Dandakaranya Development Authority

under the Government of India, Ministry of Home Affairs on regular basis and subsequently appointed Driver in the year 1973 in the same establishment till 31.10.1985. The applicant was declared surplus with effect from 1.11.1985 and he was put in the surplus cell of Government of India. The applicant was again appointed Driver in the Central Ground Water Board and posted in the unit office at Agartala. The applicant completed about 35 years of service and he attained the age of 58 years on 31.11.1996. Having come to know that the authority was going to issue a notice of retirement, he submitted a representation praying to allow him to continue in service till 60 years on the ground that he was a workman.

According to the applicant as per F.R 56(b) he being a Workman he is entitled to work upto 60 years.

2. Mr.A.K.Choudhury, learned Addl.C.G.S.C on the other hand has disputed the claim of the applicant. According to him the superannuation of the applicant was governed by F.R. 56(a) and not F.R.56(b), since a Driver is a Group C post.

3. On the rival contention of the counsel for the parties it is now to be seen whether the applicant has come within the ambit of F.R.56(a) or (b). F.R.56 relates to retirement.

We quote F.R 56 :-

"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."

A Driver is not a workman. Admittedly the applicant was not employed under the industrial establishment. As per Note below F.R.56, 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. The applicant was

X

in any neither employed in an industrial nor work charged establishment. Therefore he is not entitled to get the benefit of F.R.56(b). Mr A.K.Choudhury, learned Addl.C.G.S.C has drawn our attention to a decision of the Apex Court, State of Orissa & Ors. vs. Arnab Kumar Dutta, reported in 1996(7) SCC 203. In para 4 of the said judgment it was held as follows :-

"In the case in question this Court was called upon to decide the age of retirement of a 'workman' who as per the second proviso to Rule 71(a) of the Orissa Service Code shall ordinarily be retained in service up to the age of 60 years. In the Note appended to the proviso, it has been stated that a 'workman' means a highly skilled, skilled or semi-skilled and unskilled artisan employed on a monthly rate of pay in any Government establishment. After examining the meaning of the word 'artisan' finding place in the different dictionaries, it was held in para 12 that the object of the Rule appears to bring "artisan-workman" on a par with Class IV employees, and he alone is required to retire on the completion of 60 years of age, but not the gazetted or non-gazetted Class III government servants or even Class II or I, which would be the result if all artisans were given benefit of retention of service up to 60 years inasmuch as even a Director of Town Planning or Chief Architect could be considered to be an artisan. It was, therefore, held that among others a draftsman would not be a workman to get the benefit of retention of service up to the age of 60 years."

Similarly this Tribunal also in the case of Abani Mohan Das vs. Union of India & Ors. in O.A.No.31/95 held as follows :-

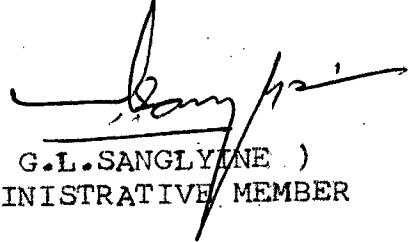
"In the light of the above decision of the Supreme Court, we are of the opinion that the applicant does not fall within the definition of artisan or industrial workman. He is not therefore entitled to get the benefit of F.R.56(b)."

In our opinion the present application is squarely covered by the aforesaid O.A.No.31/95. Therefore, we hold

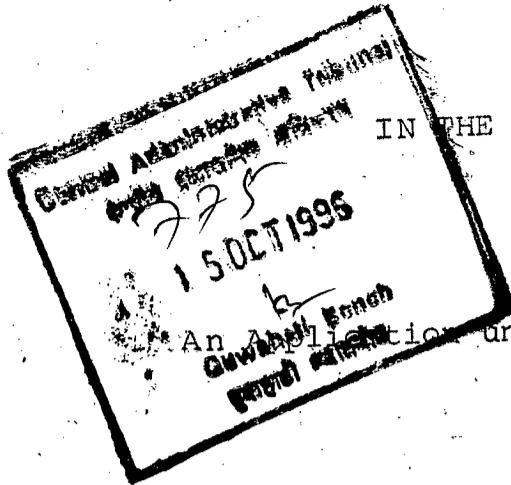
RJ

that the applicant is not entitled to get the benefit of provisions of F.R. 56(b).

The application is dismissed. No order as to costs.

  
( G.L.SANGLYNE )  
ADMINISTRATIVE MEMBER

  
( D.N.BARUAH )  
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

An Application under Section 19 of the Administrative  
Tribunals Act, 1985.

Filed by the applicant  
from Mr. Anup  
14.10.96. Adm.

O.A. No. 246/96

Shri Anugrah Patra

-versus-

Union of India & Ors.

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-9
2	-	Verification	10
3	1	Representation dated 12.08.96	11-12
4	2	Notice dated 27.8.96	13

COPY in handover  
to Mr. S. Ali S. C.A.S.C.  
Bhul  
14.10.96

Filed by

Date : 14-10-96.

Bhul  
Advocate

Anugrah Patra

1. Particulars of the Applicant.

Sri Anugrah Patra

Son of late Premdarshan Khosla,

Daleshwar,

Road No. 11, Agartala-797007

Tripura (West) ..... Applicant

2. Particulars of the Respondents.

1. The Union of India,

Through the Secretary to the Govt. of India

Central Ground Water Board,

Ministry of Water Resources,

Shram Shakti Bhawan

New Delhi.

2. The Chairman,

Central Ground Water Board,

Shram Shakti Bhawan,

New Delhi.

3. The Chief Engineer,

Central Ground Water Board,

NH-IV, Faridabad

Haryana

4. The Director (Admn.)

Central Ground Water Board,

N.H. IV, Faridabad

Haryana

..... Respondents

Contd.....P/3

Anugrah Patra

3. Particulars for which this application is made.

This application is made regarding pre-mature retirement at the age of 58 years of service and also against the notice of retirement issued under letter No. A-22/CGWB/ NER/Estt/85 dated 27.8.96 whereby the applicant is sought to be retired on completion of 58 years of age and also with the prayer for a direction upon the respondents to allow him to continue his service till 60 years of age on the ground that the applicant falls under F.R. 56(b) of the F.R.S.R.

4. Limitation

That the applicant declare that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

5. ~~Excess of the case~~ Jurisdiction of the Tribunal.

That the applicant further declares that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case

6.1 That the applicant is a citizen of India and as such he is entitled to the rights and privileges and protections as guaranteed under the Constitution of India.

6.2 That the applicant was initially appointed as cleaner in the year 1961 under the Dandakarayana Development Authority under the Government of India, Ministry of Home Affairs on regular basis. However the applicant

was appointed as Driver on regular basis in the year 1973 in the said Dandakarayana Development Authority. The applicant served there continuously as driver till 31.10.1985 with full satisfaction to all concerned.

6.3 That your applicant was declared surplus with effect from 1.11.1985 and the applicant was brought in the surplus cell of Government of India. However the applicant was again re-deployed as driver in the Central Ground Water Board, Government of India, Ministry of Water Resources and he was posted in the office of the Director, Central Ground Water Board (in short CGWB) North Eastern Region, Guwahati with effect from 7.1.1986. The applicant was transferred and posted in the ~~xxx~~State unit office, CGWB under the Officer-in-Charge, CGWB State Unit Dhaleswar, Road No. 11 Agartala 797007, Tripura (West) and presently serving as driver in the said Unit Office at Agartala.

6.4 That your applicant has completed in total 35 years of service by now and is going to attain 58 years of age on 31.10.1996. The applicant came to know from a reliable source that the authorities is processing his retirement papers and likely to issue the notice of retirement asking the applicant to retire on 31.10.1996. The applicant on receipt of this information submitted a representation before the Secretary, Government of India, Ministry of Water Resources New Delhi through proper channel on 12.8.96 praying for allow to continue him to continue in service till attaining the age of 60 years of age i.e. on 31.10.1998. It is also stated

Contd.. P/5

*Anugrah Pal*

in the said representation that the applicant being workman as defined ~~in~~ under Section (b) of F.R. 56 of F.R.S.R. as he is serving as a motor vehicle driver is entitled to be retired on superannuation on attaining the age of 60 years i.e. on 31.10.1998 and it is also stated that the applicant came to know that the Director of CGWB, NER is, going to retire him on attaining the age of ~~cited~~ 58 years of age on 31.10.96. The applicant also ~~stated~~ in his representation two decisions of the Hon'ble Supreme Court reported AIR 1991 SC 276 (S.P. Dhubey Vs. M.S. S.R.T Corporation) and Chandigarh Administration Vs. Ajit Singh and Another reported in AIR 1992 SC 1586 which supports the case of the applicant for allowing him to continue in service till attaining the age of 60 years. In this connection the applicant stated in the said representation that since the age of retirement in the Dandakarayana Development Authority was 60 years where he was initially appointed therefore he is entitled to retire on superannuation only at the age of 60 years even though he is declared surplus and subsequently absorbed in the another organisation of the Central Government.

A copy of the representation dated 12.8.96 is annexed as Annexure-1.

6.5 That your applicant begs to state that it is specifically stated in the Fundamental Rule that a workman who governed by this rule shall retire from service on the afternoon of the last day of month in which he attains the age of 60 years. The relevant portion of F.R. 56 (b) is quoted below :

Contd....P/6

*Anup Singh Palwal*

" (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."

From above; it is quite clear that the applicant is highly skilled workman and therefore he is entitled to retire on attaining the age of 60 years of age. In view of the F.R. 56 (b) the impugned notice of pre-mature retirement on superannuation dated 27.8.96 is liable to be set aside and quashed. Copy of the retirement notice dt. 27.8.96 is annexed as Annexure-2.

88.

6.6 That the applicant begs to state that retirement age of the applicant was 60 years while appointed under the Dandakarayana Development Authority therefore the applicant is entitled to serve till he is attaining the 60 years of age although he was declared surplus and subsequently absorbed under the present respondents. Moreover, the applicant is a skilled worker totally covered under F.R. 56 (b) therefore ~~xxx~~ he is also entitled to be retired on superannuation at the age of 60 years.

The applicant also urged to produce the appointment letter of the applicant issued by the Dandakarayana Development Authority at the time of hearing.

6.7 That this application is made bonafide and for the cause of justice.

Contd...P/7

*Anup Singh Palwal*

7. Reliefs sought for :

Under the facts and circumstances stated above the applicant prays for the following reliefs :

1. That the respondents be directed to allow the applicant to continue to work till the applicant attaining the age of 60 years in terms of F.R. 56(b) i.e. upto 31.10.1998.
2. The Hon'ble Tribunal be pleased to set aside the impugned retirement notice issued under letter No. 4585/A-22/CGWB/NER/Estt/85 (Annexure-2) dated 27.8.1996 be set aside and quashed.
3. To pass any other order or orders as deemed fit and proper under the facts and circumstances as stated above.

The above reliefs are prayed on the following amongst other grounds

- G R O U N D S -

1. For that the applicant is a highly skilled Worker falls under the category of F.R. 56(b) therefore entitled to be retired on superannuation on attaining the age of 60 years.
2. For that the applicant the initial appointment under the Dandakarayana Development Authority, Govt. of India where he was entitled to retire on superannuation at the age of 60 years.

Contd.. P/8

*Amresh Pal*

3. For that the impugned notice is served upon the applicant in terms of F.R.56 (a) for retiring on superannuation at the age of 58 years whereas the service of the applicant is governed by the F.R. 56 (b) where the provision of 60 years of service laid down in the case of Highly skilled artisan which is applicable in the instant case of the applicant.
4. For that the representation of the applicant has not been considered by the authorities.
5. For that the decision of the Hon'ble Supreme Court referred in the representation also support the case of the present applicant.

8. Interim Reliefs prayed for :

During the pendency of the application the applicant prays for the following reliefs :

1. That the applicant be allowed to continue to work as Driver till attaining the age of 60 years of age in terms of F.R. 56 (b) i.e. upto 31.10.1998.

The above reliefs are prayed on the grounds explained in paragraph 7 of this application.

9. Details of remedy exhausted.

There is no any other remedy save and except filing this application before Your Lordship praying for appropriate relief.

Contd...

*Amugash Palan*

10. Matter not pending in any court/tribunal.

The applicant declares that he has not filed any application in any Court/Tribunal.

11. Particulars of the postal order.

Postal Order No. : 444805

Date of Issue : 15-10-96.

Issued from : G.P.O., Guwahati

Payable at : G.P.O., Guwahati

12. Details of Index :

And Index showing the particulars of documents are enclosed.

13. List of enclosures :

As per Index.

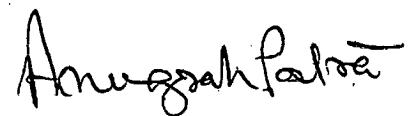
Verification ....

Amresh Pal

V E R I F I C A T I O N

I, Sri Anugrah Patra, son of late Premdarshan Khosla, aged about 58 years, resident of Daleswar, working as driver in the C.G.W.D. Department do hereby declare that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts.

I, sign this verification on this the 15<sup>th</sup> day of October, 1996.



Signature

Annexure-1

To

The Secretary to the Govt. of India,  
Ministry of Water Resources,  
Shrama Shakti Bhavan  
Rafi Marg, New Delhi.

(Through Proper Channel)  
Sub: Superannuation of Sri A.G. Patra, MTD, CGWB, SUO, Agartala  
at the age of 60 years instead of 58 years.  
Respected Sir,

Most respectfully and humbly, I prefer this  
humble appeal for favour of kind consideration of my following  
grievance:

1. That, the fact of my case is that, I was promoted  
as a Driver in the Dandakaranya Project in March, 1973  
from the post of Cleaner in which I was appointed in  
October, 1961 and being declared surplus by the said  
Project under Union Home Ministry on 31.12.85 on redeployment,  
I joined in CGWB, NER, Guwahati on 1.7.86 and then  
transfer to CGWB SUO, Agartala on March 1987.

2. That, being a workmen as defined in Section (b) of  
FR 56 as I am performing duties as a driver. I am entitled  
to be retired on attaining the age of 60 years, i.e. on  
31.10.98 but as I understand the Director of Central  
Groundwater Board North Eastern Region, Guwahati-5 is  
going to retire me on attaining the age of 58 years on  
31.10.96.

3. That, in this connection, I beg to enclose copies  
of two decision of Hon'ble Supreme Court in (i) S.P. Dubey  
Vrs. M.SRT Corporation (AIR 1991 SC-276) and (ii) Chandigarh  
Administration Vs. Ajit Singh & another (AIR 1992 SC-1586).  
In the first case, the Hon'ble Supreme Court has decided the  
principal that, the Age of retirement as prescribed in the  
original Department will also be applicable to an employee  
who is absorbed in another department on being declared  
surplus and the age prescribed in the department in which  
the employee is absorbed will not be applicable. In my

Contd..

Amugrah Patra

case the age of 60 years is followed in the Dandakaranya project, so in my present department, I am to be retired only on attaining 60 years.

The second case as cited above the Hon'ble Supreme Court held that, to give effect to FR 56 (b) to retire an employee at the age of 60 as workmen, the nature of duty is the sole criteris. My nature of duty is driving the vehicle and being a driver I am a workman for the purpose of Fr 56(b) and as such, I am to be retired only on attaining age of 60 i.e. on 31.10.1998.

In the above circumstances I pray, that order may be passed such before 31.10.96, so that my immediate authority may not retire me on 31.10.96 and for this I shall remain ever grateful.

Agartala  
the 12.8.96

Yours faithfully,  
Sd/- Illegible 12.08.96  
(A.G.Patra)  
M.T.D. CGWB, SUO  
Agartala

Advance copy sent to :-

The Chief Hydrologist, Central Ground Water, Board  
NH-IV, Faridabad-121001 (Haryana).

The Director Administration with copies of two judgements for favour of taking decision to retire me on 31.10.98 for which I shall remain ever grateful.

Sd/- Illegible 12.8.96  
(A.G.Patra)  
MTD.

*Amal  
Amla  
Amla*

*Amal Patra*

REGISTERED WITH A/D

No. 4585/A-22/CGWB/NER/Estt/85  
Government of India  
Central Ground Water Water Board  
North Eastern Region,  
Tarun Nagar, Bye Lane-1  
Guwahati-781005

Dated the 27 AUG 1996

To

Shri A.G. Patra, MTD,  
Central Ground Water Board,  
C/o Shri A.D. Baniya,  
D.N.K. Colony  
Korapur,  
Pin-764020, Orissa

Sub : Pension papers completion on superannuation/retirement  
- regarding.

Sir,

As per Govt. records, you are liable to be retired  
from service on superannuation w.e.f. 31.10.96 (AN).  
Pension papers are required to be completed at least  
six/eight months before retirement. You are therefore  
requested to complete the following papers/forms and  
submitted the same alongwith its supported enclosures  
latest by 16.9.96 positively, so that the pension papers  
can be submitted to Pay & Accounts Officer, CGWB, NH-IV  
Faridabad, for further necessary action.

Encl :-

1. Appendix-D form (4 copies)
2. Forms-3
3. Forms-5

Yours faithfully,

Sd/-

(U. GOGOI)  
SCIENTIST-C  
for Director

Copy to :-

The Officer-In charge, CGWB, SUO, Agartala alongwith  
a copy of the enclosures as above is enclosed herewith for  
the similar action.

Sd/- Illegible  
(U. GOGOI)  
SCIENTIST-C  
for Director

*Anupam Palit*