

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 789/2016

New Delhi, this the 25th day of July, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Chandu Lal,
Aged 52 years,
S/o Shri Ghanshyam Singh,
Working as Office Superintendent,
Engineer Stores Depot,
Delhi Cantt – 110 010.

.. Applicant

(By Advocate : Shri Rajiv Manglik)

Versus

1. Union of India
Through Secretary (Defence),
Ministry of Defence,
South Block, New Delhi.
2. Engineer-in-Chief,
Engineer-in-Chief's Branch,
Integrated HQ of MOD (Army),
DHQ PO, New Delhi-110011.
3. HQ Chief Engineer Western Command,
PIN – 908543
C/o 56 APO.

.. Respondents

(By Advocate : Shri Piyush Gaur)

ORDER (ORAL)

Heard the learned counsel.

2. The learned counsel for the applicant states that as per the Civilian in Defence Services (Filed Service Liability) Rules, 1957, as

amended by notification dated 06.01.1969, those who have completed 25 years of continuous service or who have attained the age of 45 years, cannot be posted to field service unless they are willing to undertake such liability, subject to medical examination.

3. It is stated that the applicant falls in this category, who is a Civilian Govt. servant and has completed more than 25 years of service and has attained the age of 45 years, and therefore, his transfer order dated 06.08.2015 is contrary to the provision of these Rules.

4. Per contra, the learned counsel for the respondents states that as per the guidelines on Management of Group 'C' and 'D' Posts of MES, para 21(g) provides as follows:

“(g) The normal age limit for tenure station/complex posting is 52 years. Subordinates over 52 years may also be posted for a shorter tenure but none will be retained at tenure station/complex beyond the age of 55 years. The age for such postings will be considered as on date of posting.”

It is, therefore, contended that the age limit as per the guidelines is 52 years and the applicant can be posted to tenure station/complex posting.

5. The learned counsel for the respondents also contended that the Guidelines of 1957 provided in Rule 1 sub-rule (i) and (ii) that the rules applies to Civilian Govt. servants in the Defence in the categories specified in Schedule-I, and Schedule-I does not include the post of Office Superintendent, which is the post being held by

the applicant and, therefore, it is his contention that the 1957 Rules does not apply to the applicant at all. Therefore, being a Group 'C' employee, he should be guided by the Guidelines referred to above.

6. This argument of the learned counsel for the respondents is preposterous. From Schedule-I, it would be clear that the Schedule includes all Clerks, all Supervisors, all Assistant Supervisors, all Sub-Assistant Supervisors, and Office Superintendent belongs to Supervisor or Clerical cadre. This cannot be isolated and taken out of Schedule-I merely because specifically the Schedule does not include Office Superintendent. Since it is included in the category of Clerks or Supervisors, therefore, clearly 1957 Rules applies in the case of the applicant, and we agree with the contention of the learned counsel for the applicant that rules notified under Article 309 cannot be subverted by the guidelines issued by the respondents later on. The rules will have to prevail and the applicant, therefore, being very much covered by the provisions of 1957 Rules and being not willing to join for complex posting, cannot be transferred. The order dated 06.08.2015 is, therefore, quashed and set aside. The O.A. is allowed.

(P.K. Basu)
Member(A)

/Jyoti/