

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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ORIGINAL APPLICATION NO.060/00951/2017

Reserved on 14.05.2018

Decided on 30.05.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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Trilok Singh S/o Sh. Madan Singh, age 62 years, permanent R/o Village Magru Pehri, Post Office Rawainkhal, Distt. Bageshwar (Uttarakhand) (Group-C).

....APPLICANT

(Present: Mr. Sajjan Singh, Advocate)

VERSUS

1. Postgraduate Institute of Medical Education & Research, Sector 12, Chandigarh through its Director.
2. The Governing Body of Postgraduate Institute of Medical Education & Research, Sector 12, Chandigarh, through Chairman.
3. The Secretary to Government of India, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi 110011.

....RESPONDENTS

(Present: Mr. Sanjay Goyal, Advocate)

ORDER

HON'BLE MRS. P. GOPINATH, MEMBER (A):-

Applicant was recruited as Hospital Attendant on 09.07.1980 in the respondent Institute. He was promoted as Hospital Attendant Grade-I on 30.04.2015 (Annexure A-1). In the gradation list circulated on 11.12.2013 (Annexure A-2), the date of retirement of the applicant has been shown as 30.04.2016. Applicant discharged his duties upto 26.08.2015, when he was

issued a relieving letter from the said date. In the relieving letter, the respondents informed the applicant that he would not be disbursed of any salary from actual date of retirement onwards, and all payments made after the said actual date of retirement would be recovered from him.

2. Applicant was a middle pass employee. The respondents had noted a wrong date of retirement in the gradation list dated 11.12.2013 (Annexure A-2) and also extracted service for three months and 26 days beyond the date of applicant's retirement. Not having retired the employee on the date of his retirement, the respondent is attempting to put the entire blame on applicant for over stayal in service, beyond the date of his retirement. It was responsibility of the respondents to ensure that all persons, whose date of retirement falls in a particular month should be issued with a memo of retirement. Not having done this, the respondent is attempting to impose the wrong superannuation as the liability of the applicant.

3. There is no doubt that the applicant was required to be retired from due date. Applicant being low level employee may not have kept track of his retirement month. No formal order of retirement was issued, which would have served as a reminder to the applicant that his retirement was due. It was a duty cast upon the respondents to issue the order of retirement before the said date. No retirement is automatic and a specific order of retirement by the Competent Authority is necessary to retire a government servant. Whereas, the applicant should also have been vigilant on this matter, the respondents cannot absolve themselves of the

respondents responsibility of issuing the retirement order of the applicant.

4. Having extracted the work from the applicant for three months and 28 days, the salary paid to the applicant for duty so rendered will not be recovered, on account of fact that the applicant had actually worked for the said months beyond the date of retirement. Further, as per Hon'ble Apex Court's order in case of ***State of Punjab and others versus Rafiq Masih (White Washer)*** in SLP No.11684 of 2012 decided on 18.12.2014, no recovery is to be made from retired employees belonging to Group-C & D. The Hon'ble Apex Court has also laid down that no recovery would be made from retired employees. On both grounds, no recovery can be made by the respondents from the applicant. Therefore, the instant OA is hereby allowed. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(P. GOPINATH)
MEMBER (A)

Dated: 30.05.2018.

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