

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1861/2019

Tuesday, this the 3rd day of September 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mr. Joginder Singh Verma

(Workshop Superintendent)

s/o Sh. Jai Kishan Verma

r/o H.No.A-81, Raj Park

Sultan Puri, Delhi – 86

Group A

Aged 60 years

Presently posted at:

GND Institute of Technology, Rohini

..Applicant

(Mr. Sourabh Ahuja, Advocate)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Sachivalaya, Players Building
IP Estate, New Delhi – 2
2. Principal Secretary/Secretary (TTE)
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
3. The Principal
GND Institute of Technology
Rohini, Delhi
4. Director
Department of Training & Technical Education
GNCT of Delhi
Muni Maya Ram Marg
Pitam Pura, Delhi – 88
5. Lt. Governor
GNCT of Delhi
Raj Nivas, Shamnath Marg
New Delhi

6. AICTE

Through its Member Secretary
 Nelson Mandela Marg
 Vasant Kunj, Delhi

..Respondents

(Mr. Amit Anand, Advocate for respondent Nos. 1 to 5 –
 Mr. Gyanendra Singh, Advocate for respondent No.6)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant joined the services of Department of Training & Technical Education (DTTE), Government of NCT of Delhi, the 1st respondent herein, as Workshop Superintendent (WS) in the Polytechnics on 20.08.1998. He was retired from service on completion of 60 years of service, through an order dated 28.06.2019. This O.A. is filed challenging the said order.

2. The applicant contends that the post of WS in Polytechnics was made equivalent to the post of Lecturer, by the All India Council for Technical Education (AICTE), the 6th respondent herein, through notification dated 30.12.1999 and the 1st respondent, in turn, issued an office order dated 27.12.2005, whereby the posts of Lecturer, WS and Training & Placement Officer, were brought under the category of teaching staff. He submits that when a doubt arose as to whether the age of superannuation of 62 years, stipulated for Lecturer is applicable to the WS also, the 1st respondent issued memorandum dated 02.02.2006 stating that the said age limit would apply to WS also. It is also stated that one WS, by name

Gyan Prakash, was continued up to 62 years and he retired from service on 31.10.2008.

3. The applicant further submits that in the notification dated 01.03.2019 issued by the 6th respondent, there is nothing to suggest that the earlier directions, to treat the post of WS on par with Lecturer have been modified and there was absolutely no basis for 1st respondent to retire him on attaining 62 years. It is also his case that same qualifications for the posts of Lecturer and WS, namely, "First Class Diploma in Engineering and TTI Diploma, were stipulated through notification dated 25.07.1968.

4. On behalf of respondent Nos. 1 to 5, a counter affidavit is filed. It is stated that though the 6th respondent equated the post of WS with that of Lecturer, a perusal of the qualifications stipulated for the post of Lecturer discloses that it is only those who possess the degree in Engineering, that are entitled to be appointed as Lecturer and it is but natural that the WS, to be entitled to be continued up to the age of 62 years, must possess the qualifications prescribed for the post of Lecturer. According to them, the applicant does not hold that qualification.

5. On behalf of respondent No.6, a counter affidavit is filed. According to them, the post of WS was equated to that of Lecturer in their notification dated 30.12.1999 and there is no change in the subsequent notification.

6. We heard Mr. Sourabh Ahuja, learned counsel for applicant, Mr. Amit Anand, learned counsel for respondent Nos. 1 to 5 and Mr. Gyanendra Singh, learned counsel for respondent No.6, at length.

7. In the Polytechnics, the Lecturers are entrusted with the duty of teaching, whereas the WSs maintain and take care of the Workshops. In addition to that, they are also required to work as Instructors, which involves teaching. Across the various faculties of teaching, the equation of certain employees, such as Physical Training Instructors and Librarians with that of Lecturers, was undertaken in the recent past. In the case of Polytechnics, the equation of the post of WS, which involves semblance of teaching with that of Lecturer, was also undertaken by the 6th respondent. In its notification dated 30.12.1999, the 6th respondent stipulated the age of superannuation for the posts of Lecturers, Librarians and other personnel as 62 years. The 1st respondent adopted the same through office order dated 27.12.2005.

8. A doubt was entertained as to whether the age of superannuation of 62 years would apply to WS also. In that behalf, memorandum dated 02.02.2006 was issued, which reads:-

“Memorandum

Clarification have been sought from the staff of the polytechnics whether this Office Order No.F.1(702)/99-

SB/Vol.III/2981 dated 27.12.2005 regarding enhancement of age of superannuation from 60 to 62 years for the teachers and also re-employment of superannuated teachers upto the age of 65 years on case to case basis, through Screening Committee, are applicable or not to the Training and Placement Officer and the Workshop superintendent of Polytechnics under Govt. of Delhi.

The matter has been examined in detail and in view of the definition of cadre structure of teaching staff of polytechnics as given in the 'Norms and Standards' of the AICTE, it is clarified to all the concerned that the above referred to Order dated 27.12.2005 is applicable to the Training and Placement Officers and the Workshop superintendent of the Polytechnics under the Govt. of Delhi.

The issues with the prior approval of the Secretary (TTE)."

9. On 05.03.2010, the 6th respondent issued a notification, prescribing the revised norms. In this, the qualifications for the post of Lecturer and other service conditions are stipulated. The post of WS was dealt with under the heading "pay scales, service conditions, career advancement scheme for teachers and equivalent posts". It was mentioned as under:-

"Workshop Superintendent is treated at par with Lecturers and is to be considered for upward mobility similar to that of Lecturers."

10. With this, the steps taken by the 1st respondent, treating the post of WS on par with Lecturer at least in the context of age of superannuation, got the seal approval from the 6th respondent. The present stand taken by the 1st respondent that a WS can be treated on par with Lecturer, if only he holds the qualifications stipulated through notification dated 05.03.2010,

is somewhat difficult to be accepted. Such an interpretation would amount to reading something into what is specifically mentioned in the notification, as regards the post of WS, as extracted above.

11. In the recent past, the 6th respondent issued a notification dated 01.03.2019 whereby the age of superannuation for the post of Lecturer was enhanced to 65 years. The 1st respondent, however, refused to extend to the applicant, not only the benefit under that notification, but also the one, mentioned in their circular dated 02.02.2006. The stand taken by the 6th respondent becomes material in this behalf. In their counter affidavit, the 6th respondent stated as under:-

“6. Incidentally, it is also mentioned that after 6th CPC notification, AICTE has also issued the notification dated 01.03.2019 (Annexure-R6-1), where the post of Workshop Superintendent has not been mentioned in the cadre of faculty in diploma level technical institutions. This, however, does not mean that the Workshop Superintendent has ceased to be at par with Lecturer which was the case under 6th CPC notification. In other words, the provisions of 6th CPC notification dated 05.03.2010 in so far as it relates to all the status of the Workshop superintendent equivalent to Lecturer still remains in force and the issue relating to the age of superannuation has to be decided in accordance with the relevant provisions laid down in this regard in that notification as mentioned above, as the Govt. of NCT accepted the recommendations of 5th CPC in the matter of enhancement of age of superannuation from 60 years to 62 years, the instant case should have also been dealt with on the same analogy and the applicant should not have been retired on attaining the age of 60 years as the same is not in accordance with the provisions given under AICTE notification dated 05.03.2010 which still subsists and is not overruled in anyway by the 7th CPC AICTE notification dated 01.03.2019.”

It is very clear that no change has taken place in the recent notification dated 01.03.2019 and the equivalence or equation of WS with Lecturer, that was brought into an existence earlier, continues to hold good.

12. The only basis for the 1st respondent to deny the benefit to enhance the age of superannuation to the applicant is that he did not fulfill the qualifications prescribed for the post of Lecturer. We find from the record that no doubt whatever was expressed by the 1st respondent in this behalf, much less any clarification was sought from the 6th respondent. The net result is that the applicant is entitled to be continued in the service up to the age of 65 years, subject, however, to the condition that in case the 6th respondent states that equation of the post of WS to that of Lecturer in Polytechnics, shall be subject to the former holding the qualification stipulated for the post of Lecturer, a different situation may arise.

13. We, therefore, allow the O.A. and direct the respondents to reinstate the applicant within four weeks from the date of receipt of a copy of this order, and continue him in service till he attains the age of 65 years. This, however, shall be subject to the condition that in case the 6th respondent issues a clarification to the effect that the equation of the post of WS shall be subject to the WS holding the qualification stipulated for the post of Lecturer, the applicant shall be liable to be retired from the date of receipt of such a clarification, if any. It

is made clear that the applicant shall not be entitled to any back-wages but shall be entitled to the benefit of continuity of service.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 3, 2019
/sunil/