

Prithipal Singh

Vs

Union of India

Civil Appeal No. 4689 of 1990

(Smt. M. S. Fathima Beevi, Kuldeep Singh JJ)

19.09.1990

JUDGMENT

KULDIP SINGH J

1. Special Leave granted.

2. Prithipal Singh joined Central Government Service on December 17, 1947 and at the time of his retirement on November 30, 1989, he was working as Staff Car Driver in the Ministry of Surface Transport (Transport Wing), Government of India. He was informed by an order dated December 28, 1988 that on attaining the age of 58 years he was due to retire on November 30, 1989. On May 19, 1989 he filed representation claiming that he could not be retired at the age of 58 years as in terms of Fundamental Rule 56 (b) his age of superannuation was 60 years. The representation was rejected on June 8, 1989. He challenged the order dated December 28, 1988 before the Central Administrative Tribunal. The Tribunal by its judgment dated November 30, 1989 dismissed the application. This appeal vis special leave petition is against the judgment of the Tribunal.

3. Mr. P. P. Singh, learned counsel appearing for the appellant, has argued that the appellant was a "workman" in terms of Fundamental Rule 56(b) and as such is entitled to continue in service till he attains the age of 60 years. Fundamental Rule 56(b) is as under:

"F.R. 56(b):- A workman covered by these rules shall retire from service in the afternoon of the last day of the month in which he attains the age of 60 years."

Note: A workman means a highly skilled, skilled and semi-skilled artisan employed on a monthly rate of pay in an industrial or work charged establishment."

4. The appellant has to satisfy two conditions to be a 'workman' under the above Rule. He has to be an "artisan" and also be employed in an 'industrial' or 'work-charged establishment'.

5. A driver of staff car is undoubtedly a skilled or semi-skilled person. He has to use his whole body specially his hands and feet to drive the vehicle. The definition of work 'artisan' is wide enough to include a driver of a car.

6. The crucial question, however, is whether Ministry of Surface Transport where the appellant worked as Staff Car Driver is an "industrial" or 'workcharged establishment'. Mr. P. P. Singh has relied on Bangalore Water Supply and Sewerage Board v. R.Rajappa (1978) 3 SCR 207: (AIR 1978

SC 548) and has contended that applying the test laid down by this Court in the said judgment the Ministry of Surface Transport is an 'industry'. He has also relied on *Des Raj v. State of Punjab* (1988) 2 SCC 537 : (AIR 1988 SC 1182) wherein Irrigation Department of the State of Punjab has been held by his Court to be an "industry".

7. Mr. P. P. Singh has placed before us the annual report for the year 1,989-90 published by the Government of India, Ministry of Surface Transport, New Delhi and has taken us through various parts of the said report. According to him the Ministry of Surface Transport controls road development, inland water transport, shipping, ports and light houses all over the country and various public sector undertakings like Shipping Corporation of India, Hindustan Shipyard Ltd., Central Inland Water Transport Corporation, Indian Road Construction Corporation, Delhi Road Corporation etc. are under the supervision of this Ministry. He contended that in view of the law laid down by this Court in *Bangalore Water Supply and Sewerage Board (supra)* and *Des Raj (supra)*, the Ministry of Surface Transport is an industry". He has also contended that the functions performed and services rendered by the Ministry are of the nature of a public utility organisation and as such it is a 'work-charged establishment'. On this reasoning Mr. P. P. Singh submits that the appellant is a 'workman' as defined under the note below Fundamental Rule 56(b).

8. Apart from the annual report there is no material before us to show the nature of the functions performed by the said Ministry. There is nothing in the pleadings of the parties to show that the Ministry is an "industrial" or work-charged establishment". It is not possible for us to reach such a finding on the basis of the contents of the annual report placed before us by the appellant. We are, however, of the view that the appellant be given another opportunity to produce the relevant material before the Tribunal to show that the Ministry of Surface Transport is an 'industry' or a work-charged establishment'. We, therefore, set aside the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi and remand the case for fresh decision in the light of the observations made by us. The Tribunal shall afford an opportunity to the parties to place additional material in support of their contentions. The appeal is disposed of in the above terms. There shall be no order as to costs.

Order accordingly.

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