

Sardul Singh

Vs

Delhi Administration and Another

Civil Appeal No. 2319 of 1991

(S. C. Agarwal, A. M. Ahmadi JJ)

06.05.1991

ORDER

1. Special leave granted.

2. The appellant was compulsorily retired from service by an order dated August 1, 1986. He was due to retire on November 30, 1989. He questioned the order of compulsory retirement by filing an application in the Central Administrative Tribunal, Principal Bench, New Delhi (Sardul Singh v. Delhi Administration, (1991) 15 ATC 520 (ND)). The Tribunal by its order dated October 5, 1990 came to the conclusion that the appropriate authority has not followed the procedure and the guidelines and, therefore, the impugned order of compulsory retirement was legally unsustainable. This becomes clear on a reading of paragraphs 13 and 15 of the Tribunal's order. If the Tribunal had rested there the appellant would have no cause for complaint. But the Tribunal then proceeded to direct as under :

"The respondent are directed to consider the case of the applicant for retention in service in the lower post of Sub-Inspector of Police w.e.f. August 1, 1986. In case they come to the conclusion that he could be retained in the next lower post of Sub-Inspector of Police, they shall pass an order to the effect that he was deemed to be reverted from the post of Inspector to that of Sub-Inspector of Police w.e.f. August 1, 1986. The applicant would also be entitled to all consequential benefits including arrears of salary and allowances from August 1, 1986 till the date on which he would have retired on attaining the age of superannuation. In the interest of justice and equity, we further direct that the pension and other retirement benefits given to the applicant should not be revised to his disadvantage consequent upon such order or reversion from the post of Inspector to that of Sub-Inspector of Police."

3. By the date this order was passed the appellant had reached his normal age of superannuation. The grievance of the appellant is that once the order of compulsory retirement was quashed as legally unsustainable, the Tribunal was not justified in issuing the extracted directive since the proper order would have been to direct his reinstatement in service, that is, to direct the respondents to proceed on the premise that there was no valid order of compulsory retirement against him. We think this contention is well-founded. Once the Tribunal quashed the order of compulsory retirement as unsustainable, the only alternative for it was to direct the respondents to ignore that order and to proceed on the basis that the petitioner had continued in service till the date of his normal retirement, i.e. November 30, 1989. We, therefore, quash the extracted portion and direct the respondents to treat the appellant as having retired in normal course w.e.f. November 30, 1989 on the post which he was occupying at the date of compulsory retirement and pay him the back wages

and other monetary benefits and refix his pension accordingly. The appeal is allowed accordingly but there will be no order as to costs.

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