Chandigarh Administration Through the Chief Engineer

Vs

Mehar Singh

Civil Appeal No. 3671 of 1991 (Arising out of SLP (C) No. 5636 of 1990)

12.09.1991

ORDER

1. Leave granted.

2. The Chandigarh Administration, the appellant, challenges the order of the Central Administrative Tribunal, Chandigarh Bench, holding that the respondent-employee was a workman within the meaning of Fundamental Rule 56(b).

3. The employee attained the age of 58 years on April 15, 1988. If the age of retirement is 58, as contended by the appellant-Administration, the employee had retired on April 30, 1988. On the other hand, if the right age of his retirement is 60 years, he retired only on April 30, 1990. The question, therefore, is whether the Administration was right in superannuating the employee on completion of the age of 58. According to the employee, the right age for retirement being 60 years, as provided under clause (b) of F.R. 56, he should have been retained in service, as found by the Tribunal, till April 30, 1990.

4. Clauses (a) and (b) of F.R. 56 read as under :

> "F.R. 56(a) Except as otherwise provided in this rule, every government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty-eight years.
>
> (b) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

Note. - In this clause, a workman means a highly skilled, skilled, semi-skilled, or unskilled artisan employed on a monthly rate of pay in an industrial or work-charged establishment."

5. The Tribunal does not seem to have considered the status of the employee with reference to the nature of the work performed by him. The Tribunal assumed that all employees working in an industrial or work-charged establishment qualified as workmen within the meaning of clause (b) of F.R. 56, so as to get the benefit of retirement on completion of 60 years unlike other government employees whose age of retirement is 58 years.

6. The question whether an employee is a 'workman' within the meaning of clause (b) of F.R. 56 has to be considered with reference to the nature of his work. Clause (b) has to be construed with reference to the statutory Note appended thereto. The Note says that a workman who is an artisan employed on a monthly rate of pay in an industrial or workcharged establishment qualifies for the purpose of clause (b). It does not matter whether the workman is a skilled or a semi-skilled or an

unskilled artisan. All artisans, who are workmen, whether skilled or otherwise qualify for the benefit of clause (b), provided they are employed on a monthly rate of pay in an industrial or work-charged establishment. The expression 'artisan' has, therefore, to be understood as widely as possible and without regard to his skill. Nevertheless, he must be both a workman and an artisan of some kind. Whether the employee in question is both a workman and an artisan within the meaning of clause (b) read with the note is a question essentially of evidence as regards the nature of his work. The Tribunal has not embarked on such an analysis.

7. In the circumstances, it is not possible to come to the conclusion as regards the status of the employee.

8. We are told that the employee has not been paid for the period subsequent to April 30, 1988; nor has he worked during that period. The right of the employee to be paid for the subsequent period of two years would depend upon his status.

9. In the circumstances, we set aside the impugned order of the Tribunal and remit this case to the Tribunal for fresh consideration of the status of the employee, as aforesaid. The Tribunal shall decide whether or not the employee is entitled to receive salary for the period subsequent to April 30, 1988 and pass appropriate orders.

10. The appeal is allowed in the above terms. We made no orders as to costs.

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