Chandigarh Administration and another

Vs

Ajit Singh and another

Civil Appeal No. 1899 of 1990

(M. N. Venkatachaliah, S. C. Agrawal G. N. Ray JJ)

11.12.1991

JUDGMENT

1. The Chandigarh Adminstration seeks to appeal to this Court from the order dated 20th March, 1989 made by the Central Administrative Tribunal, Chandigarh, in O.A. No. 280-CH of 1988 holding that respondent No. 1 was a 'Workman' for purposes of F.R. 56(b) and was entitled to remain in service till the attainment of the age of 60 years; that the order of the Chandigarh Administration requiring his retirement with effect from 30th April, 1980 upon attaining the age of 58 years is erroneous and that respondent No. 1 be called back to duty to serve till 30th of April, 1990 when he would attain 60 years.

2. We have heard learned counsel on both sides. Special leave granted. It is stated that the principles guiding the applicability of Cl. (b) of F.R. 56 to workcharged employees has since been laid down by this Court in Chandigarh Administration v. Mehar Singh (C.A. No. 3671 /'91 disposed of on 12th September, 1991) where a similar question arose out of a similar order made by the Tribunal. The Division Bench noticed the proposition that fell for consideration thus

> "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 Cl. (b) of F.R. 56, he should have been retained in service, as found by the Tribunal, till 30-4-1990."

On the scope of Cl. (b) of F.R. 56 as applicable to such cases it was held

> "The question whether an employee is a workman' within the meaning of Cl. (b) of F. R. 56 has to be considered with reference to the nature of his work. Cl. (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 Cl. (b). It does not matter whether the workman is a skilled or a semi-skilled or unskilled artisan. All artisans, who are workmen, whether skilled or otherwise qualify for the benefit of Cl. (b), provided they are employed on a monthly rate of pay in an industrial or workcharged 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 Cl. (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."

As to the error in the Tribunal's approach it was observed:

> "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 workcharged establishment qualified as workmen within the meaning of Cl. (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."

3. For the reasons stated in and following the said earlier order in Civil Appeal No. 3671 of 1991 we allow this appeal, set aside the order under appeal and remit the matter to the Tribunal to consider and dispose of the matter afresh in the light of the observations, made by this Court in the said Civil Appeall No. 3671 of 1991.

Order accordingly.

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