

**SUPREME COURT OF INDIA**

Managing Director UPSRTC

Vs.

P. N. Tandon

C.A.No.721 of 1993

(S.Saghir Ahmad and D.P.Wadhwa JJ.)

24.09.1997

**ORDER**

1. Respondent No. 1 was the Accounts Officer in U. P. State Road Transport Corporation (for short 'Corporation'). He was compulsorily retired from service by order dated 22nd February, 1980 passed under Rule 56 (C) of the Financial Handbook by the Managing Director of the Corporation.

2. Before the order of compulsory retirement was passed, the work and conduct of the respondent was assessed by the screening committee consisting of the Managing Director, the Joint Managing Director and the Chief Accounts Officer of the Corporation, who reported as under:

"5. Shri P. N. Tandon, Audit Officer:

He has completed the age of 50 years as on 30-5-1989. He shall complete the age of 55 and 58 years as on 30-5-1994 and 30-5-1997 respectively. The entries in his confidential record during the years

1979-80 to 1985-86 as well as in the year 1987-88 are the satisfactory\good\average class, but the entries of the years 1986-87 and 1988-89 are not available. This entry has been made vide the order dated 30-9-1989 that he had inspected Moradabad Depot only once during the period of six months. He could not detect the misappropriation of money by Shri Satish Kumar, Conductor for long period during such inspection. The accounts record of the Depot was not examined carefully. Moreover, adverse entries have been made during the period 1961-62 and 1962-63. Shri Tandon's eye sight is not working and he has become blind. He got himself treated in Shankar Netralaya (Eye Hospital) Madras, but no improvement could be made. Medical Board also found him blind. He could not do any work of accounts or audit due to blindness. Therefore, in such circumstances it shall not be possible for him to do accounts work. Therefore, in such circumstances, the Committee recommended that as Shri Tandon is blind and as he is not capable of doing any work, therefore, there is no justification to continue him in the service. The Committee has recommended to compulsorily retire him."

3. The High Court, which was approached by the respondent by means of a writ petition, quashed the order of compulsory retirement and issued a mandamus directing the Corporation to allow the respondent to continue on the post of Audit Officer (Accounts Officer Grade-I) and to provide him all the service benefits including promotion etc. till the date of his normal superannuation.

4. The High Court, during the course of its judgment, also observed that the respondent having become blind could have been provided a suitable alternative job. In support of this observation, reliance was placed by the High Court on the decision of this Court in *Anand Bihari v. Rajasthan State Road Transport Corporation, Jaipur through Managing Director*, (1991) 1 SCC 731 : (1991 AIR SCW 284) which was a case of a Driver whose eyesight had become defective and he could not drive the bus with care and safety required of an efficient driver. It is pointed out by the learned counsel for the Corporation that the Corporation, too, has similar service regulations for its employees and if the Drivers of the Corporation develop any difficulty in their eye sight, they are also provided alternative jobs. But while the Regulation provides for alternative jobs being given to the employees who become physically handicapped, there is no such Regulation for the Officers of the Corporation. Learned counsel for the respondent does not dispute this proposition and submits that the Service Regulations, as applicable to officers of the Corporation, do not contain any provision for the alternative job being given to them, if they become physically disabled. That being so, the principle laid down by this Court in the case of Drivers could not be invoked in the present case and the High Court was in error in observing that the respondent could be provided an alternative job. The fact remains that the respondent was totally blind and he could not actively perform his duties as an Accounts Officer. Under the circumstances, it was not open to the High Court to issue a mandamus to the Corporation to allow the respondent to continue on the post of Audit Officer with full service benefits including promotion. Having regard to the nature of respondent's ailment, which had totally incapacitated him from performing his duties, we are satisfied that the Corporation was right in compulsorily retiring the respondent from service in public interest and that the High Court was in error in setting aside the order of compulsory retirement as the respondent, admittedly, had lost the vision in both the eyes and was totally blind with the result that he could no longer read or scrutinise the official records pertaining to accounts which constituted his primary duty.

5. Subsequent to the decision of the High Court, the respondent had represented to the Corporation that his daughter, who had passed the B. Sc. examination, may be provided a job. He also pointed out that he had no son and the amount of pension which he was getting was insufficient to sustain him and his family. During the pendency of this appeal, the respondent attained the age of superannuation on 31st May, 1997. Having regard to these facts and without intending it to be treated as precedent, the period of eight years of his service which was still at his credit when he was compulsorily retired at the age of fifty years, shall be counted as period of effective service for purposes of computation of his pension and the Corporation shall on that basis re-determine the amount of pension payable to him but the pension, at the enhanced rate, shall be paid to him with effect from the date on which he attained the age of superannuation, namely, 31st of May, 1997.

6. The appeal is disposed of finally as indicated above. No costs.

Order accordingly.