
(1998) 09 DEL CK 0108
In the Delhi High Court
Case No : CWP No. 3113 of 1997

Raj Bir Singh

APPELLANT

Vs

Municipal Corpn. of Delhi

RESPONDENT

Date of Decision : 24-09-1998

Acts Referred:

Fundamental Rules — Rule 56

Citation : (1998) 47 DRJ 705

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Ashok Aggarwal, for the Appellant; R.K. Khanna and Daleep Singh, for the Respondent

Judgement

Vijender Jain, J.—Rule.

2. This petition can be disposed of at this stage itself. Mr. Aggarwal has contended that the matter is covered by numerous Single Bench decisions of this Court as well Division Bench decisions of this Court. He has contended that in respect of the petitioner who is a Duplicating Machine Operator, the age of superannuation ought to have been 60 years instead of 58 years under Clause B of Rule 56 of the Fundamental Rules. In support of his contentions he has relied upon a judgment of this Court in CWP No. 260/98 decided on 27.5.1998 which was in relation to the Duplicating Machine Operators. He has also cited Division Bench judgment of this Court in CWP 1229/95 decided on 17.2.1997. The same was also in relation to the Duplicating Machine Operators and the Division Bench held that the Gestetner Operators are covered under FR 56 (b) and are entitled to be retained in service the age of 60 years. Aggrieved by this order, the MCD filed a SLP (SLP 10376/97) in Supreme Court, which was dismissed in liming by the Supreme Court on 7.7.1997.

3. Mr. Khanna, learned counsel for the MCD has contended that judgment of the Apex Court delivered in State of Orissa and Others Vs. Adwait Charan Mohanty and Others, was not considered by the High Court and was not brought to the

notice of the Supreme Court. He has further contended that the said case is fully applicable to the facts and circumstances of the case. Mr. Khanna has also relied upon the judgment of learned Single Judge of this Court in Ram Prakash v. MCD (CWP No. 3568/96) decided on 13.8.1997.

4. I have heard the arguments of the learned counsel for the parties at length. I am of the considered opinion that the judgment of learned single Judge of this Court cited by the counsel for the respondent is not applicable to the facts and circumstances of this Court as the said case pertains to X-Ray Technicians. In view of the fact that Gestetner Operators were declared to be entitled to retire at the age of 60 years, I am bound by the judgment of the Division Bench of this Court rendered in CWP No. 1229/95. More so, in view of the fact that the SLP 10376/97 preferred by the MCD was dismissed by the Supreme Court. Following the dictum laid down by the Division Bench, I allow the writ petition. The petitioner shall be entitled to the benefit of Rule 56 (b) and will be entitled to retire at the age of 60 years and will be entitled to all the benefits.

5. With these observations, petition stands disposed of.