

(1984) 08 OHC CK 0003

In the Orissa High Court

Case No : Original Jurisdiction Case. No. 2477 of 1983

Trinath Patnaik

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 23-08-1984

Acts Referred:

Orissa Service Code, 1939 — Rule 71

Citation : (1984) 2 OLR 847

Hon'ble Judges : K.P. Mohapatra, J;J.K. Mohanty, J

Bench : Division Bench

Advocate : G.A.R. Dora, for the Appellant; Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

J.K. Mohanty, J.—The petitioner in this writ petition, who was working as the Head Draftsman in the Settlement Office, Berhampur, has challenged the order of his superannuation from service on his completing the 58th year of age with effect from 30. 6. 1984 A. N. vide Annexure-2. His contention is that under the Second Proviso to Rule 71(a) of the Orissa Service Code, he should be retained in service upto the age of 60 years as he is a workman. "Workman" has been defined in the note appended below the said proviso. It is as follows :

"For this purpose, "a workman" means a highly skilled, skilled or semi-skilled and unskilled artisan employed on a monthly rate of pay in any Government establishment."

2. In the counter it has been stated that the petitioner is not an artisan. The post of Head Draftsman is treated as a technical one for the purpose of administrative convenience only.

3. It is seen from the counter that the Head Draftsman is a permanent staff who checks personally all boundaries of villages in case of discrepancies and certifies the correct preparation of boundary sketches etc., which involve technicalities.

Admittedly, a Draftsman prepares village maps etc. The dictionary meaning of "artisan" is, "a skilled workman; craftman". "Craftsman" means, a skilled workman; a skillful artist or one having only technical skill". (Webster's New World Dictionary, Second Concise Edition). There is no doubt that the work of the Draftsman involves technical skill. Thus, in view of the Second Proviso to Rule 71(a) of the Orissa Service Code, the petitioner is entitled to be retained in service upto the age of 60 years, unless for any contingency as indicated in the said proviso he is required to retire earlier.

4. In the result, the writ petition is allowed and the order passed in annexure-2 is quashed. The petitioner has retired from service with effect from 30. 6.1984 pursuant to the order issued under Annexure-2. He should be taken back to service immediately. He shall be deemed to be continuing in service and shall be entitled to all consequential service benefits. There would be no order as to costs.

K.P. Mohapatra, J.

5. I agree