

**PRITHIPAL SINGH V. UNION OF INDIA**

**[AIR 1991 SC 915]**

**COURT:** Supreme Court of India

**DECIDED ON:** 19<sup>th</sup> September, 1990

**BENCH:** Kuldeep Singh, J. & M F Beevi, JJ.

**FACTS OF THE CASE**

The Appellant, Prithipal Singh, joined the Central Government Service on 17th December, 1947. At the time of his retirement i.e. on 30th November, 1989, he was working as Staff Car Driver in the Ministry of Surface Transport (Transport Wing), Government of India. By an order dated 28th December, 1988, he was informed he was due to retire on November 30, 1989 on completion of 58 years of age. On May 19, 1989, Prithipal Singh filed representation claiming that he could not be retired at the age of 58 years as in terms of Fundamental Rule 56(b) his age of superannuation was 60 years. The representation was rejected on June 8, 1989. On rejection, Prithipal Singh challenged the order dated December 28, 1988 before the Central Administrative Tribunal. The Tribunal too dismissed the application by its judgement dated 30th November, 1989. The appeal via special leave petition is against the judgement of the Tribunal.

**ISSUES**

Prithipal Singh filed an application claiming that under the Fundamental Rule 56(b), he could not be retired at the age of 58 years. According to the Fundamental Rule 56(b), his age of superannuation was 60 years and thus, the order dated 28<sup>th</sup> December, 1988 should not be applicable. According to Prithipal Singh, unless he turns 60, he cannot be compelled to retire.

**RULE**

Fundamental Rule 56:

(1) Subject to the provisions of sub-rule (3) every Government servant other than a class IV 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:

Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of fifty-eight years:

Provided further that scientific, technical and other personnel having special or expert knowledge in any field may, with the sanction of competent authority, be given extension of service beyond the age of fifty-eight subject of their physical fitness and suitability for work; but such extension shall not ordinarily beyond the age of sixty years.

(2) A class IV Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.

(3) (a) A Government servant may, in the public interest be retired at any time after he attains the age of fifty-five years without assigning any reason by giving him a notice in writing.

(b) The period of such notice shall be three months:

Provided that such Government servant may be retired forthwith and on such retirement the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before his retirement or as the case may be, for the period by which such notice falls short of three months

### **JUDGEMENTS RELIED UPON:**

- *Bangalore Water Supply and Sewerage Board etc. v. R. Rajappa and Ors.*<sup>1</sup>

---

<sup>1</sup> AIR 1978 SC 548

- *Des Raj and Ors. v. State of Punjab and Ors*<sup>2</sup>

## **APPLICATION**

The learned counsel for the appellant Mr. P.P. Singh has argued that the appellant was a “workman” in terms of Fundamental Rule 56(b) and as such is entitled to continue in service till, he attains the age of 60 years. There are two conditions that the appellant Prithipal Singh has to satisfy to be a ‘workman’ under the Fundamental Rule 56(b) namely: He has to be an “artisan” and he also has to be employed in an ‘industrial’ or ‘work-charged establishment’. The appellant is a driver of staff car and thus, he is undoubtedly a skilled or semi-skilled person. Prithipal Singh has to use his whole body especially his hands and his legs to drive the vehicle. The definition of the word ‘artisan’ is wide enough to include a driver of a car. The crucial question, however, is whether Ministry of Surface Transport where the appellant worked as Staff Car Driver is an “industrial” or ‘work charged establishment’. In *Des Raj vs State of Punjab & Ors.* the judgment was passed that in the event of the definition of industry being changed either by enforcement of the new definition of industry or by any other legislative change, it would always be open to the aggrieved Irrigation Department to raise the issue again. Along with the above judgement, Mr. P.P Singh has also relied on *Bangalore Water Supply and Sewerage Board etc. v. R. Rajappa and Ors.* and has contended that applying the tests laid down by this Court in the said judgment the Ministry of Surface Transport is an ‘industry’.

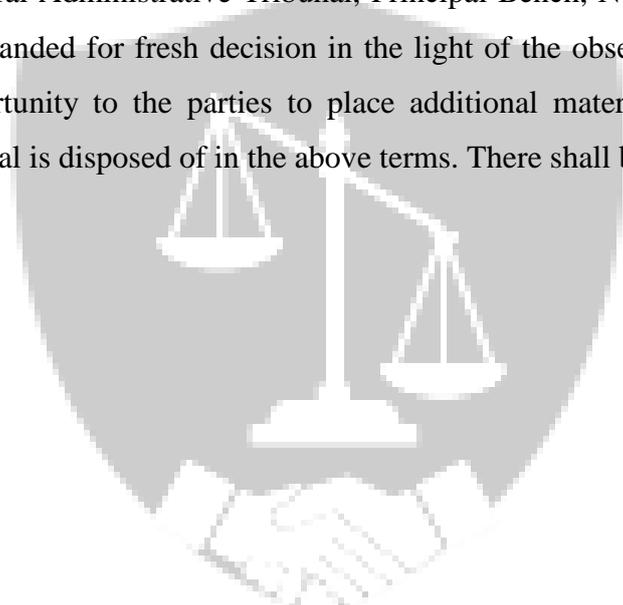
## **CONCLUSION**

Mr. Prithipal Singh placed before the judge the annual report for the year 1989-90 published by the Government of India, Ministry of Surface Transport, New Delhi. According to him the Ministry of Surface Transport controls road development, inland water transport, shipping, ports and light houses all over the country and various public sector undertakings like Shipping Corporation of India, Hindustan Shipyard Ltd., Central Inland Water Transport Corporation, Indian Road Construction Corporation, Delhi Road Corporation etc. are under the supervision of this Ministry. He contended that in view of the law laid down by this Court in *Bangalore Water Supply and Sewerage Board (supra)* and *Des Raj (supra)*, the Ministry of Surface Transport is an “industry”. He has also contended that the functions performed and services

---

<sup>2</sup> *Ors* 1988 SCR (3) 616

rendered by the Ministry are of the nature of a public utility organisation and as such it is a 'work-charged establishment'. On this reasoning Mr. PP. Singh submits that the appellant is a 'workman' as defined under the note below Fundamental Rule 56(b). Apart from the annual report there was no material to show the nature of the functions performed by the said Ministry. There is nothing in the pleadings of the parties to show that the Ministry is an "industrial" or "work-charged establishment". It is not possible to reach such a finding on the basis of the contents of the annual report placed by the appellant. Therefore, the appellant was to be given another opportunity to produce the relevant material before the Tribunal to show that the Ministry of Surface Transport is an 'industry' or a 'work-charged establishment'. Therefore, the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi was set aside and the case was remanded for fresh decision in the light of the observations. The Tribunal shall afford an opportunity to the parties to place additional material in support of their contentions. The appeal is disposed of in the above terms. There shall be no order as to costs.



JudicateMe