Shafiullah Vs. the M.P. State Road Transport Corpn.

Shafiullah Vs. the M.P. State Road Transport Corpn.

SooperKanoon Citation : sooperkanoon.com/504155

Court : Madhya Pradesh

Decided On : Aug-23-1989

Reported in : (1990)IILLJ313MP; 1990MPLJ515

Judge : T.N. Singh and ;K.K. Verma, JJ.

Acts : Madhya Pradesh Industrial Employment (Standing Orders) Act, 1950 - Sections 34; Madhya Pradesh Industrial Employment (Standing Orders), Rule - Rule 14 A(1); The Road Transport Corporation Act, 1950 - Sections 34, and 34(1)

Appeal No. : Letters Patent Appeal No. 16/1986

Appellant : Shafiullah

Respondent : The M.P. State Road Transport Corpn.

Advocate for Def. : R.D. Jain, Adv.

Advocate for Pet/Ap. : H.N. Upadhyaya, Adv.

Disposition : Appeal allowed

Judgement :
ORDER

T.N. Singh, J.

1. This Letters Patent Appeal has been heard analogously with eleven other similar appeals for the reason that in all these appeals the same order passed on 28th April 1986 by a learned Single Judge of this Court, sitting at this Bench, in the respective cases of each of the appellants, is challenged. The common respondent, Madhya Pradesh State Road Transport Corporation, for short, 'MPSRTC, was petitioner in those cases and had challenged the decision of the Industrial Court, Indore, upholding the claim of the respondents therein (herein appellants) that they could be legally retired on attaining the age of sixty years, and not before that. That decision is challenged in these appeals, namely, L.P.A. Nos. 16, 18, 19, 21, 22, 23, 24, 26, 27, 28, 29 and 30 of 1988. Another Letters Patent Appeal, namely, L.P.A. No. 2 of 1988 is also heard analogously, but in that appeal, an order was passed on 2nd April 1986 in Misc. Petition No. 135 of 1982 by a learned Single Judge of this Court at Indore, is challenged. That appeal, filed at Indore as L.P.A. No. 31 of 1986, has been transferred for hearing and decision at this Bench under orders of the Hon, the Chief Justice because the same question of law has to be decided therein. Indeed, as regards Misc. Petition No. 815 of 1986, also heard analogously, the same position obtains and the only difference is that challenge to Industrial Court's impugned order is based on the learned Single Judge's decision rendered at this Bench on 28th April 1986.

2. The admitted case of the parties is that the appellants and respondent No. I in the Misc. Petition, were all serving prior to 1st June 1962 in different posts under Madhya Bharat Roadways. The said respondent Abdul Sattar was serving as a 'Conductor' at that time and he was retired on 30th May 1985 on attaining the age of 58 years when he was holding the post of a 'Booking Agent'J., The appellants were also retired similarly on attaining the age of 58 years, but it is necessary to indicate the posts from which they were retired. Appellants in L.P.A. Nos. 16, 18, 19, 21, 22, 29 and 30 of 1986 respectively, Shafiullah, Narayanrao, Hardayal, Badrisingh, Raghunath Singh, Ramsingh and Kishanlal, were each holding the post of a 'Driver'. Appellant Laxminarayan of L.P.A. No. 23 of 1986 was Billing Assistant/Accountant. Appellant S.B. Sapre of L.P.A. No. 24 of 1986 was a 'Painter' while George Gilbert of LPA 2/88 was 'Asst. Painter.' Appellant Ramsingh Tomar of L.P.A. No. 26 of 1986, though appointed as 'Conductor', retired as a 'Booking Agent', according to the finding of the learned Single Judge. Appellant

Ramgopal of L.P.A. No. 27 of 1986, was a 'Daftari' and appellant Maniram of L.P.A. No. 28 of 1986 was a 'peon'. That Madhya Bharat Roadways was owned by Madhya Bharat Government is also the accepted position on facts.

3. The case of the appellants and respondent Abdul Sattar of M.P. No. 815 of 1986, accepted by the Industrial Court, was that they could be legally retired by MPSRTC on their attaining the age of 60 years and the decision of that Court was based on F.R. 56(a) of Madhya Bharat Government. The learned Single Judges, sitting at this Bench and at Indore, both took the view that under Rule 14A of the relevant 'Standing Order', they could be retired validly on attaining the age of 58 years. In all cases, the Industrial Court took the same view that the claim of the 'workman' who had raised a Labour Dispute based on F.R. 56(a) was not hit by Rule 14A of the aforesaid 'Standing Order' and that they were protected under Section 25FF of the Industrial Disputes Act, for short, the 'I.D. Act' and Section 115 of the States Reorganisation Act, for short, the 'S.R. Act'.

4. Before we proceed to the merit of the rival contentions of parties, it is necessary to dispose of a preliminary objection as Shri R.D. Jain, counsel appearing for the MPSRTC, has strenuously urged that the Letters Patent Appeals are not maintainable. For this view, he has placed reliance on certain observations made in the case of Umaji v. Radhikabai (AIR) 1986 SC 1272 and more particulary, on a Bench decision of this Court, rendered at Indore in the case of National Textile Corporation v. Radheshyam (1986 Lab. I.C. 640). On behalf of the appellants, reliance is placed on a Bench decision of this Court, rendered here in the case of Dr. P. Gopal Raman Ratnam v. Dr. Shyam Babu, (1989 JLJ 443) and, more particularly, on Apex Court's decision in the case of Pushkar Nath (AIR) 1987 SC 1311, contending that law has been settled in that regard at highest level and the question is no longer res integra. Accordingly, it is submitted that the Bench decision in National Textile Corporation's case (supra) has ceased to be good law and has lost its binding force.

5. Although this Court in P. Gopal Raman Ratnam (supra), relying on Pushkar Nath (supra) has taken the view which repels the preliminary objection and one of us was a party to that decision, to do justice to the labour undertaken by Shri Jain,

we propose to make a reappraisal of the question. It is true that at para 99 in the case of Umaji (supra), there are some observations, but admittedly also those are per incurium. The question mooted for decision in Umaji (supra) was whether under Clause 15 of Letters Patent of Bombay High Court, against the decision of a learned Single Judge under Article 227 of the Constitution, appeal lies to the Division Bench. The Court held that such appeal was not maintainable. His Lordship Madon, J., however, also expressed the view that an intra-Court appeal will lie in respect of an order passed by a learned Single Judge under Article 226 of the Constitution as proceeding therein was 'Original Civil Proceeding'. At para 99, it is further observed that powers conferred by Articles 226 and 227 are separate and distinct and operate in different fields. Proceeding further, he observed, 'The fact that the same result can at times be achieved by two different processes does not mean that these two processes are the same'. In our view, significance of this observation is misconceived by learned counsel in placing reliance thereon and on the following passage extracted from para 99:

'The power of superintendence conferred upon every High Court by Article 227 is a. supervisory jurisdiction intended to ensure that subordinate Courts and Tribunals act within the limits of their authority and according to law (see State of Gujarat v. Vakhatsinghji Veghela. (AIR) 1968 SC 1481, 1487, 1488 and Ahmedabad Mfg. & Calico Ptg. Co. Ltd. v. Ramtahel Ramnand, (AIR) 1972 SC 1598. The orders, directions and writs under Article 226 are not intended for this purpose and the power of superintendence conferred upon the High Courts by Article 227 is in addition to that conferred upon the High Courts by Article 226. Though at the first blush it may be seen that a writ of certiorari or a writ of prohibition partakes of the nature of superintendence in as much as at times the end result is the same, the nature of the power to issue these writs is different from the supervisory or superintending power under Article 227.'

5A. We are clear in our minds that his Lordship did not mean that the High Court in exercise of its jurisdiction under Article 226 of the Constitution cannot issue a writ of certiorari against a Tribunal like an Industrial Court and, therefore, as and when interference with an order of a Tribunal is made by the High Court in its writ jurisdiction, it must be supposed that power had been exercised in that respect

under Article 227 of the Constitution. Indeed, if that contention is accepted, it would produce unusual result of unsettling the law which is firmly entrenched in our legal system since the early days of the Republican era by a long line of decisions of the Supreme Court itself. Such an absurd construction has to be avoided to maintain judicial discipline.

6. A Constitution Bench of the Apex Court had undertaken long ago an appcaisal of the certiorari jurisdiction contemplated under Article 226 of the Constitution in T.C. Basappa v. T. Nagappa (AIR) 1954 SC 440. Their Lordships held that the High Court had rightly quashed, issuing certiorari under Article 226 of the Constitution, the proceeding and the impugned order of the Election Tribunal. It was held that certiorari jurisdiction of superintendence contemplated in English Law was transplanted in India even before Independence and that position had not changed after the Independence as in the Constitution Article 226 referred explicitly to High Court's power to issue a writ of certiorari. That view was reiterated in H.V. Kamath's case (AIR) 1955 SC 233 by a Four-Judge Bench of that Court. at para 19 et. seq. of the Report. At paras 20 and 21, their Lordships expounded on the scope of the certiorari jurisdiction vis-a-vis jurisdiction under Article 227 of the High Court. They observed that a Tribunal was amenable equally to High Court's jurisdiction under Articles 226 and 227 of the Constitution although the proper ground for issue of a certiorari may be different, making it clearer still that the High Court's power to issue certiorari under Article 226 was not controlled in any manner by jurisdiction under Article 227 of the Constitution. What was 'well settled' and 'not in dispute', according to their Lordships, was that the Court issuing certiorari acts in exercise of supervisory and not appellate jurisdiction and that certiorari was issued to Courts and Tribunals, inter alia, acting without jurisdiction or in excess of that or for failing to exercise that. In the case of Ahmedabad Manufacturing, (1972--II-LLJ-165 at 171), their Lordships took special care to decry use by the High Courts of their jurisdiction under Article 227 for granting relief by way of writs or direction in the nature of writs, more accurately contemplated by Article 226.

7. We reiterate, therefore, the counsel's reliance on the observations afore-extracted of Madon, J. in Umaji's case (supra) to press his contention is

inappropriate. Let it be recalled that Madon, J., on the other hand, had himself observed that writ appeal would lie under Letters Patent (Bombay), but that question has been settled more firmly in Pushkar Nath (supra). The decision was based on Clause 12 of Letters Patent of J & K. High Court and it was observed that in issuing a writ of certiorari, the Court exercises its 'Original Civil jurisdiction' under Article 32(2A) of J. & K Constitution, exercising power of superintendence and, therefore, Letters Patent Appeal was maintainable. We had considered that decision in taking the view, accordingly, in P. Copal Raman Ratnam (supra) on the language of Clause 10 of Letters Patent of this Court, that the decision of the learned Single Judge rendered under Article 226 and impugned before us in that case by way of a Letters Patent Appeal, was amenable to challenge thereunder. We had also discussed in that case Apex Court's decision in Sha Babulal Khimji's case (AIR) 1981 SC 1786 on which the Bench deciding the National Textile Corporation's case (supra) had relied.

8. Indeed, that Bench appears to have been moved by the consideration that in Shah Babulal Khimiji (supra), it was observed (albeit, per incurium), that Rules may be framed under the Code of Civil Procedure by High Court contemplating appeals from decisions in writ petitions rendered by learned Single Judge and in the relevant Rule of this Court, namely, Rule 6, no such appeal was expressly contemplated. To be more precise, we further point out that in Shah Babulal Khimji (supra), the question was not of competence of a Division Bench of a High Court to hear appeal from a decision rendered by learned Single Judge under Article 226 of the Constitution. In that case, an interlocutory order was passed by a learned Single Judge of Bombay High Court in a suit filed on the Original Side of that Court which was dismissed by a Division Bench of that Court as not maintainable. Their Lordships reversed the decision of the Division Bench and held that appeal to be maintainable. Their Lordships' decision in that case really rested on the meaning of the term 'Judgment', appearing in the relevant Letters Patent and this position, a Division Bench of this Court had made clear in Rajmata Vijayaraje Scindia's case (1988 JLJ 861). Shri Jain's reliance on that decision of this Court also does not lend any weight to counsel's contention to sustain the preliminary objection.

9. For the reasons aforesaid, we have no hesitation to hold that the preliminary objection must fail. The instant Letters Patent Appeals are held maintainable, for decision to be rendered therein on merits.

10. In order to render decision on merits, we may profitably extract relevant portions of aforesaid F.R. 56(a) on which the claim of the appellants and said respondent No. 1 Abdul Sattar is based:

'F.R. 56 (a): Except as otherwise provided, the date of compulsory retirement of a Govt. servant in superior service .... 55 years. He i may be retained ... with the sanction of the Govt. on public grounds ... he must not be retained after the age of 60 years except in very special circumstances.

Provided that a workman who is governed by these rules shall ordinarily be retained in service up to the age of 60 years. He may however be required to retire at any lime after attaining the age of 55 years after being given a month's notice, or a month's pay in lieu thereof, on the ground of impaired health or of being negligent or inefficient of the discharge of his duties. He may also retire at any time after attaining the age of 55 years, by giving one month's notice.

For this purpose 'workman' means a highly skilled, skilled or semi-skilled and unskilled artisan employed on a monthly rate of pay in industrial and work-charged establishment.

(b) A Govt. servant in inferior service should be required to retire at the age of 60 years. He may not be retained in service after that age except with the sanction of the Government'.

It is their case that as per Proviso aforequoted, they had not been given a notice on their attaining the age of 55 years, as contemplated thereunder, that they would be retiring 'on the ground of impaired health or of being negligent or inefficient in the discharge of (their) duties'. Thus, they had, thereunder, the right to be 'retained in service up to the age of 60 years'. It was the option of the employer to terminate their service on their attaining the age of 55 years on grounds mentioned, but that option not having been exercised, they had perfected their right to be retained in

service till they attained the age of 60 years.

11. It is true that the case of each of the appellants and respondent Abdul Settar has to be examined separately as to whether each of them was a 'workman', as defined, to avail benefit of the Proviso. But, at this stage, it is necessary to observe that in support of their contention, their counsel have relied on recent decision of the Apex Court rendered in the case of Hari Shankar Gaur (AIR) 1989 SC 374 to contend that MPSRTC has no case as law has been settled at the highest level by that decision which applies to their case and supports their contention. In that case, the petitioner was employed earlier, before Independence (in 1946) by Gwalior and North India Transport Co. which was owned by the erstwhile Ruler of Gwalior. That Company was operating transport service in Delhi and its neighbourhood upto the middle of 1948 when that was taken over by the Government of India and styled 'Delhi Transport Services'. On the consideration of the relevant provisions of the Gwalior Civil Service Rules, of which Rule 7(a) (3) is in par; materia with F.R. 56 (a), Proviso, it was held that the Delhi Transport Corporation having not exercised its right to retire the petitioners on attaining the age of 58 years, they had to be continued in service until they had attained the age of 60 years.

12. Because the learned Single Judges have relied on Rule 14A(1) of M.P. Industrial Employment (Standing Orders) Act, 1961 (hereinafter referred to as the 'Standing Orders'), we may extract that provision also:

'14-A. Retirement;-- (1) An employee shall retire from the service of the employer on the date he attains the age of 58 years. He may, however, be retained in service by the employer after the date of the attainment of the age of 58 years if his services are necessary in the interest of the undertaking but he shall not be retained in service after the age of 60 years;

Provided that nothing in this clause shall adversely affect the operation of the terms of any contract, agreement, settlement or award on this subject.'

In this connection, we may also observe that the learned Single Judge, sitting at this Bench, had taken the view that the workmen (herein appellants) did not suffer

any disadvantage under the afore-quoted Rule as nothing better or more advantageous was contemplated under M.B.F.R. 56(a). About that, we may add a few words atonce as it appears to us to be a case of misreading of the two provisions. Under Rule 14-A, the employer's right to retire the employee on the attaining the age of 58 years is clear, unambiguous, unconditional and unqualified. On the other hand, he is given under F.R. 56(a) a right to retire his employee on his attaining the age of 55 years on certain conditions and it is also contemplated that the workman has to be 'ordinarily retained in service upto the age of 60 years.' Apparently, therefore, there is a sea of difference between the rights and obligations of parties contemplated under the two provisions and it is not possible evidently to hold that the main enactment of Rule 14-A(1), afore-quoted, is not less advantageous to the 'workman' as per F.R., or 'employee' as per the Rule. Even so, the Rule has to be construed on its own terms and language.

13. Not only is the Proviso to the Rule important, what is significant also is that the employer is enabled under the main enactment to retain in service any employee after the age of 60 years, 'if his services are necessary in the interest of the undertaking'. It is therefore, rightly contended by Shri H.N. Upadhyaya, Counsel appearing for the Workmen (appellants and respondent Abdul Sattar) that they are not debarred from claiming that they are to be retained in service until they had each attained the age of 60 years. Counsel has relied on Section 34 of the Road Transport Corporation Act, 1950, (for short, the R.T.C. Act) and Section 115(7) of the S.R. Act. He has submitted that the workmen being employees of the Madhya Bharat Government prior to their absorption in MPSRTC, they were entitled to rely on the 'Agreement' or, in other words, the terms and conditions of their absorption and in that regard reliance is placed on Annexure P/2 of Misc. Petition No. 815 of 1986. That document is filed by MPSRTC in which 'transfer of services' of employees of Madhya Bharat Roadways, Gwalior, is contemplated. That appears to be an intimation given to the employees that their services 'stand transferred to the State Road Transport Corporation with effect from the forenoon of 1st June 1962'. At para 3(b), one of the conditions of the transfer of service is stated -- 'that the terms and conditions of service applicable to you after such transfer will not in any way be less favourable to you than those applicable to you immediately before the transfer'.

14. It is, therefore, submitted that even if Rule 14-A(1) is held applicable, the said intimation dated 31st May 1962 must be deemed to be an 'agreement' within the meaning of the term used in the Proviso of Rule 14-A. That term is defined neither in the 'Standing Orders' nor in the parent Act. Indeed, the term is also not defined in the Industrial Disputes Act which speaks only of 'settlement' and 'award', defined in Clauses (p) and (b) respectively of Section 2 of the Act. In Black's Law Dictionary, Fifth Edition, the meaning of the term is given, among others, as a concord of understanding and intention between two or more parties with respect to the effect upon their relative rights and duties, of certain past or future facts or performance. It is also said to be a contract between parties who are thereby subjected to the obligation or to whom the contemplated right is thereby secured. In Section 2(e) of the Contract Act, it is stated. 'Every promise and every set of promises, forming the consideration for each other, is an agreement'. There is much merit, therefore, in the submission that Rule 14-A(1), Proviso, itself has saved the rights of the appellapts and respondent Abdul Sattar to be retired at the age of 60 years and not before that, in virtue of the provision in that regard contemplated in F.R. 56(a) being saved by the 'intimation' aforesaid. That apart, that intimation being in terms of Section 34, R.T.C. Act, that will be binding on MPSRTC as contemplated in subsection (2) thereof and we are also of the view that it would be necessarily 'in the interest of the undertaking' contemplated under Rule 14-A(1) to retain their services till they attained the age of 60 years. The said intimation must be deemed to be general instructions contemplated under Section 34(1) and 'previous permission', to depart therefrom, has not been proved except relying on the provision itself of Rule 14-A, said to have been framed by the State Government.

15. We are also of the view that reliance by the Industrial Court on Section 115(7) Proviso of the S.R. Act is not misconceived. The decisions relied on by that Court are pressed in service and we would examine them. In State of Rajasthan v. Rajendar Singh (1973-II-LLJ-275), the provision of Rajasthan Civil Service Rules, 1951 for the purpose of compulsory retirement of respondent was applied. That was held illegal by the High Court and also the Supreme Court in appeal because there was no previous approval of the Central Government in terms of the Proviso of Section 115(7) of the S.R. Act and also no provision in that regard in the service

conditions contemplated under Central Civil Service Regulations applicable earlier to the respondent. A more or less similar situation confronted their Lordships in T.S. Mankad's case (AIR) 1970 SC 143. The appellant was sought to be retired compulsorily under the relevant Bombay Civil Service Rules and though he was admittedly an employee of erstwhile native State of Junagarh which merged in the State of Maharashtra and under the Saurashtra Rules, he could not be retired. Proviso to Section 115(7), S.R. Act came to appellant's rescue. Shri Jain relied on Salem Erode Electricity Distribution Company's case (1966-I-LLJ-443) to contend that provisions of Rule 14-A shall prevail and F.R. 56(a) being in derogation thereof, must vacate the.place. For the same reason, we find counsel's reliance on other decisions in that regard being also not appropriate. (See Agra Electric Co., (AIR) 1970 SC 512: Railway Board v. A. Pitchumani, (1972-1-LLJ-112). However, we do not see merit in that contention because it is not a case of allowing two sets of Standing Orders to govern the terms and conditions of workers of an industrial establishment which is held illegal in the decisions cited. We need not reiterate that the same Standing Order, Rule 14-A(1) has made exception in case of one class of employees in respect of certain terms and conditions of their services in view of their peculiar circumstances and it has done nothing else.

16. Because we have not seen any repugnancy between Rule 14-A and F.R. 56(a) we are also of the view that Shri Jain's contention of according primacy to Rule 14-A deserves obviously no consideration. He submitted that the parent Act had received the assent of the President and as such, thereby, the requirements of Proviso to Section 115(7), S.R. Act were satisfied. It is not necessary to deal with that contention any further except to observe that counsel relied on N. Raghavendra Rao (AIR) 1965 SC 136 to submit that 'previous approval' contemplated under Section 115(7), Proviso, may be expressed in general terms by enacting statutory Service Rules modifying service conditions to the disadvantage of persons who would have otherwise been protected by Section 115(7), Proviso. This decision was not noticed in Rajendra Singh and T.S. Mankad (supra), but we consider unnecessary to discuss further the ratio of the three decisions to decide which view prevails and ratio of which decision is attracted to the case of the appellants and respondent Abdul Sattar.

17. Few unreported judgements of this Court are also relied on by Shri Jain to submit that in those decisions rendered by other Division Benches of this Court, stand taken before us by MPSRTC has been vindicated. We would certainly list those, but we would also observe that after decision of Apex Court in Hari Shankar Gaur (supra), those decisions have ceased to hold the field and have lost their force and effect. Copies of decisions in M.P. No. 893 of 1976 (Vasant Banod); M.P. No. 433 of 1985 (Ranjit Singh); M.P. No. 947 of 1981 (Corporation v. Santarideen); M.P. No. 1252 of 1982, M.P. No. 1251 of 1982 and M.P. No. 1046 of 1982 (in all cases. Corporation v. Industrial Court), have been placed before us for our consideration in support of the contention that if we are to take a different view, then the only course open for us is to refer the matter to a Larger Bench. That, for reasons stated, would be an exercise in futility and that contention of learned counsel must also fail.

18. We would now address ourselves to the case of each 'workman' who has come before us as the appellant and in one case as the respondent (Abdul Sattar) to determine on facts their entitlement. Before that, we may say a few words about Section 25FF, I.D. Act as the Industrial Court has rested its decision on that as well. Proviso (b) thereof expressly contemplates that a case of retrenchment in the case of transfer of ownership or management of an undertaking is excluded when 'the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer'. We have already held that F.R. 56(a) contained terms as to retirement which were more advantageous or favourable and that those contained in Rule 14-A(1) of Standing Orders were 'less favourable'. We accept, therefore, the finding, conclusion and decision of the Tribunal that the action of the respondent in terminating services of the workmen in the instant case cannot be sustained even as 'retrenchment'. Indeed, even if the other view is taken, the question of compensation would arise as contemplated in Section 25F(b) and admittedly, no compensation is paid or offered to any of the workmen in these cases. Reliance of Shri Upadhyaya on Section 2(oo), I.D. Act is also material and relevant because thereunder, as per Clause (b), the case of 'retirement of the workman on reaching the age of superannuation' under the contract of employment is excluded.

19. Now, the question to be determined is as to whether each one of the appellants and respondent Abdul Sattar can be each regarded as an 'artisan' because that is the key expression of the special definition of the term 'workman' embodied in F.R. 56(a). Shri Upadhyaya has cited a Division Bench decision of Delhi High Court in the case of Peilu Ram v. Municipal Corporation of Delhi, 28 (1985) Delhi Law Times 143, and, in our view, that is a profitable exercise. That was a case of a Driver of the Corporation and of his age of retirement, as in this case. The term 'artisan' was given its dictionary meaning to hold that a person who labours manually and physically stands in different category from other employees and by the very nature of his profession and employment, the driver who uses his fact and hands in driving a vehicle is to be regarded as an 'Artisan'. We also agree with the view expressed by the Delhi High Court that in other cases in which the workman concerned possesses such attributes as intelligence and initiative and has to use them and the work is not purely manual and physical in nature, then his case has to be distinguished and he cannot be regarded as an 'Artisan'. It appears to us that the word 'unskilled', immediately preceding the word 'Artisan', imparts that meaning to the key expression 'Artisan' and for this conclusion, we derive inspiration from the maxim Noscitur-a-socils. A person who has to simply do table work, or in other words, white-collar job, according to us, does not fall within the ambit of the term 'Artisan'.

20. Applying the above test to the case of the several appellants, we find that the several 'Drivers' and also, the 'Painter' 'Assistam Painter'. 'Daftari' and 'Peon' are entitled to the benefit'of retirment age contemplated under F.R. 56(a). There can to no doubt that in so far as they are concerned, they were all doing purely physical and manual jobs. On the other hand, the case of appellant Laxmi Narayan (of L.P.A. No. 23/86) who retired as a Billing Assistant/Accountant, Ramsingh Tomar (appellant of L.P.A. No. 26/86), and Abdul Sattar (respondent No. 1 of M.P. No. 815 of 1986) is different. It is difficult to hold that they were doing purely physical and manual work. An Accountant/Billing Assistant has to employ his intelligence in doing his job and his work done mainly on the table using pen and paper. The other two persons (Ramsingh and Abdul Sattar) who retired as Booking Agents cannot also claim that their job was of purely physical and manual nature.

21. For all the reasons aforesaid. L.P.A. Nos. 16, 18, 19, 21, 22, 24, 27, 28, 29 and 30 of 1986 and L.P.A No. 2/88 are allowed. Appellants Shafiullah, Narayanrao, Hardayal, Badri Singh, Raghunathrao, S.H. Sapre, Ramgopal, Maniram, Hemsingh, Kishartlal and George Gilbart respectively, and they are held entitled to the benefit of F.R. 56(a) and they shall be deemed to have continued in service till they each attained the age of sixty years. Their retirement by respondent/MPSRTC on their each attaining the age of 58 years is held illegal and invalid. L.P.A. Nos. 23 and 26 of 1986 arc dismissed, but M.P. No. 815/86 stands allowed. This result follows from the finding recorded in their case that they could not be regarded as 'workmen' within the meaning of the term employed under F.R. 56(a).

Consequently, Misc. Petition Nos. 284/84 and 195, 281, 285, 535, 695, 826, 827, 828 and 869 of 1985 of Gwalior Bench, preferred by MPSRTC. stand dismissed and Industrial Court's order set aside therein is restored in each case. Respondent No. I Abdul Sattar (of M.P. No. 815 of 1986) and appellants Laxmi Narayan and Ramsingh Tomar of L.P.A. Nos. 23 and 26 of 1986 respectively. are held not entitled to the benefit of F.R. 56(a). Accordingly. M.P. No. 815 of 1986 being allowed. Industrial Court's order dated 4th November 1985 as also that passed by Labour Court No. I. Gwjlior on 25th September 1985 arc set aside. However. L.P.A. Nos. 23 and 26 of 1986 being dismissed, the orders passed by the learned Single Judge in M.P. Nos. 537 and 697 of 1985 of Gwalior Bench arc maintained.

22. In the circumstances of the case, we leave the parties to bear their own costs in these matters.

23. This Order shall govern disposal of L.P.A. Nos. 18, 19, 21, 22, 23, 24, 26, 27, 28, 29 of 1988 as also L.P.A. No. 2 of 1988 as also M.P. No. 815 of 1986 as well.