

## **Jiwan Kishore vs Delhi Transport Corporation And Anr. on 11 April, 1980**

**Equivalent citations:** AIR1980SC1251, [1980(41)FLR275], (1981)ILLJ271SC, 1980SUPP(1)SCC678, 1980(12)UJ696(SC), AIR 1980 SUPREME COURT 1251, 1980 LAB IC 745, 1980 UJ(SC) 696, (1980) 2 SERVLR 513, 1981 SCC (L&S) 448, (1980) 2 LAB LN 301

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**Bench:** D.A. Desai, V.R. Krishna Iyer

### **JUDGMENT**

V.R. Krishna Iyer, J.

1. The sole question raised in this appeal is as to the age of the employee-appellant. There was a discrepancy, which was rather wide since the year of birth, according to one record was 1917 and according to another record 1927. In view of this considerable discrepancy, the employee, the Delhi Transport Corporation, appointed its Medical Board to fix the age of the appellant and according to the assessment of the age by the Medical Board, it is seen that he was 51 on 13-6-1975. We see no reason to ignore this scientific fixation of age when we have records which are flagrantly conflicting. Therefore, we fix the age of the appellant in partial allowance of his appeal at 51 on 13-6-1975. This means he will retire at the age of 58 on 12.6.1982. We are not impressed with the suggestion that we could prefix the age at the 1st of January of the year of retirement as per relevant regulation. We are not going into its vires in this case as both sides agree that if the Court fixes that age as per the Medical Board's determination, they will accept and abide by it. On this footing we dispose of the appeal in partial allowance and set aside the order of retirement and further direct that the appellant be continued in service with all the consequential benefits as a regular employee on 12-6-1982.

2. The arrears of salary etc., If any, will be paid to the appellant by the respondent within three months from today.

3. The respondent will pay the appellant costs in a sum of Rs. 1,000/-and Counsel Dr. Chittale states that the same be made over to the Legal Aid Society (Supreme Court).