

ASIAN DEVELOPMENT BANK ADMINISTRATIVE TRIBUNAL

**Decision No. 30
(6 January 1997)**

**Gayananda Cumaratunge
v.
Asian Development Bank**

**Robert Gorman, Vice-President
Toshio Sawada
Brigitte Stern**

1. The Applicant, Gayananda Cumaratunge, received a regular appointment on 18 June 1991. At the time of the termination of his service with the Bank, he was employed as Benefits Officer (Level 4) in the Compensation and Benefits Division of the Budget, Personnel and Management Systems Department ("BPMSD"). On 25 May 1994, the Director, BPMSD, advised the Applicant that, in accordance with Section 10 of the Staff Regulations the Applicants retirement from the service of the Bank would take effect on 20 June 1995, being the Applicants 60th birthday.

2. Section 10 of the Staff Regulations states:

- a. At any time after any staff member attains the age of sixty, the Bank, and such staff member, shall have the option of terminating his service in the Bank on the payment of such appropriate pension or other retirement benefit as shall be provided in the staff retirement benefit scheme; when such option is not exercised by either the Bank or the staff member, the age of retirement will be sixty-five years.
- b. Without prejudice to the foregoing, the President, in exceptional circumstances and in the interest of the Bank, may extend, for specific periods, the employment of a staff member beyond the age of sixty-five years.

3. The Applicant contends that, under the quoted Staff Regulations, the normal retirement age is 65 and that the Bank's policy of unilaterally retiring staff members at 60 is unauthorized. He also contends that the Bank's action violated his right to security of service and due process under the pertinent Administrative Orders.

4. In Samuel (No. 2), ADBAT Decision No. 15 [1996], the Tribunal held that Section 10 of the Staff Regulations gives the Bank the option to retire a staff member at the age of sixty, upon paying pension and other normal retirement benefits, and that the Bank was entitled to adopt a coherent policy of exercising that option uniformly, and without discrimination. The Tribunal also concluded in that case that the Bank's decision to retire a staff member at the age of sixty did not violate his right to security of tenure or due process.

5. Applying these principles, the Tribunal holds that the exercise by the Bank of its option to retire the Applicant was within its powers and not an abuse of discretion or otherwise flawed.

Decision:

For these reasons, the Tribunal decides to dismiss the Application.