

Union of India and Another

Vs

S. N. Verma

Civil Appeal No. 1783 of 1969

(V. D. Tulzapurkar, R. S. Sarkaria JJ)

13.12.1978

JUDGMENT

1. After hearing counsel on both sides we are clearly of the view that there is no substance in this appeal. Even counsel for the appellants did not raise any serious contention on the merits of the point that has been decided by the High Court. His only grievance was that the High Court in its judgment dated May 26, 1969 has made certain observations with regard to Article 4 of Civil Service Regulations and according to learned counsel those observations unnecessarily try to fetter or limit the power of the Central Government to alter the tenure of service of a government servant. After setting out the article the High Court has observed thus :

The article obviously does not give any liberty to the Government to change the period of tenure of any incumbent and this could not be done indirectly under the guise of dealing with the employee's pension arising from the date of superannuation. The contention, therefore, that any power is reserved under Article 4 to cut down the tenure or period of service of employee to his detriment is without any force.

2. In our view Article 4 should not have been relied upon for showing that the Government has the power to alter or cut down the tenure or period of service and the observations are undoubtedly right having regard to the topics dealt with by Article 4, for Article 4 in terms merely refers to the right to make changes regarding pay and acting allowance and leave and pension of government servants governed by C.S. Regulations. Admittedly, the respondent and the government servants like him who are governed by C. S. Regulations owe their tenure or period of service to Article 459 of these Regulations and it is under Article 459(c) (ii) that their tenure or period of service has been fixed till they attain the age of 60 years, and it cannot be disputed that Government has power to amend or alter this provision so as to cut down or increase the tenure or period of service. Unfortunately, such a power was said to be implied in Article 4 which has nothing to do with the tenure of the service. We do not, therefore, think that the observations made by the High Court in regard to Article 4 will have any bearing on the power of Government to alter Article 459.

3. Mr. Bhatia has pointed out that the respondent has been given the benefit of his salary or pay during the last two years of service which he put in until he attained the age of 60 years, but other benefits of pension and gratuity etc. have not been paid to him. We have no doubt that the appellant will pay all those benefits to the respondent without delay.

4. With the above observations the appeal is dismissed with costs.

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