

V. N. Shastry and Others

Vs

State of Andhra Pradesh and Others

Civil Appeals Nos. 1238-41 of 1985

(Ranganath Misra, S. Natarajan JJ)

22.09.1986

ORDER

1. The short question raised in these appeals is whether the appellants are liable to be superannuated at the age of 58 years or whether they are entitled to continue till they attain the age of 60. Indisputably, they belonged to the work-charged establishment under the respondent-government and have fulfilled the conditions indicated in the government order and became regular government servants. In 1983, the State Government of Andhra Pradesh reduced the age of retirement of government servants from 58 to 55. In 1984, under the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act of 1984 the age of superannuation was again raised to 58. In this Act provision has been made that workmen, whether in superior or in inferior service would ordinarily be retained in service up to the age of 60 years.

2. The appellants claimed that they are entitled to the benefit of the statutory provision and have therefore to be retained in the service till they attain the age of 60. Before the High Court what had indeed been highlighted was whether the appellants who were once members of the work-charged establishment and had exercised their option for absorption in government service could be affected by the reduction of the age of retirement from 58 to 55. The High Court had been moved before the 1984 Act came into force. Patently, therefore, the provision in that Act upon which reliance is now placed was not in existence when these writ petitions were filed.

3. Having heard learned counsel for the parties, we are of the view that sub-section (3) of Section 3 of the 1984 Act confers a right on that category of government servants to whom it relates, namely, workmen - whether in superior or inferior service - to continue in employment until they attain the age of 60 years and in deciding whether the appellants are to superannuate at the age of 58 or would have the advantage of sub-section (3) of Section 3 of the Act and would continue in service till they attain the age of 60 is a matter which has to be examined before it can finally be said as to what would be the age of retirement of the appellants. We, therefore, allow the appeals and set aside the judgment of the High Court and remit the writ petitions for fresh disposal by the High Court.

4. Before the High Court, the appellants shall be at liberty to ask for the amendment of the writ petitions to bring into the focus the present contentions and the respondents should naturally be given the opportunity of filing counter-affidavits. The High Court shall proceed to dispose of the writ petitions thereafter in accordance with the law.

5. It has been pointed out by the learned counsel for the State Government that some of the appellants had already reached the age of 58. In case, their continuance beyond 58 would not be accepted by the High Court they would be liable to superannuate. As pending disposal of the dispute

now advanced, we are of the view that the appellants may not be disturbed from service until they attain the age of 60 years. We would like to request the High Court to dispose of the writ petitions before the end of this year. The appeals are allowed and the writ petitions are remitted to the High Court for fresh disposal without any orders as to costs.

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