

Municipal Corporation of Delhi

Vs

Smt. Sheila Puri

Civil Appeal No. 5051 of 1985

(Rangath Misra, M. N. Vankatachaliah JJ)

02.12.1988

JUDGMENT

RANGANATH MISRA, J. –

1. This appeal is by special leave and is directed against the judgment of a Division Bench of the Delhi High Court in a petition under Article 226 of the Constitution where the High Court held that the age of retirement of the respondent was 60 years and not 58. At the time special leave was granted, this Court on November 18, 1985 made the following order :

Mr. Soli J. Sorabjee, appearing for the petitioner (appellant) states that irrespective of the result, the Municipal Corporation will extend the benefit of the upper age of retirement of 60 years to the respondent as directed by the High Court. Subject to this reservation we grant special leave.

2. During the pendency of the appeal, an application for inter-vention has been filed by ten employees of the Education Department of Delhi Administration for leave to support the judgment of the High Court. It is not disputed that the respondent has already retired from service on attaining the age of 60 and in view of the undertaking given by counsel for the appellant she has been given the benefit of retirement at 60.

3. It is contended that from the terms indicated in the order granting special leave this Court intended to clarify the legal position not with reference to the respondent but at large so as to provide a guideline to the employer and the employees.

4. The High Court has found and it had never been disputed that the respondent was an employee of the Municipal Corporation of Delhi. The school where she was working as Head Mistress was taken over by the Directorate of education, Delhi Administration. The age limit for retirement of officers, teachers and employees of the Municipal Corporation was 60 years and the Corporation resolved that in case of teachers and class IV servants the age of retirement should continue to be 60 years. The Joint Secretary (education) of the Delhi Administration had filed an affidavit on November 25, 1988 where in he has said :

The original age of retirement of teachers and supervisory staff of Delhi administration was 58 years but now the age of retirement has been raised to 60 years. It is submitted that there was/is no post of Inspector in the Education Department of Delhi Administration. The age of employees transferred from Municipal Corporation was kept according to Clause 7 as reproduced above.

Clause 7 indicated 60 years to be the age of retirement.

5. In view of the conceded position the age of retirement of teachers and supervisory staff of the Delhi Administration is 60 years; for those who came on transfer from the Municipal Corporation to the Delhi Administration it is also 60 years in view of the resolution of the corporation as accepted by the Government of India in its letter dated January 18, 1973. This being the position the High Court was right in holding that the respondent was entitled to continue in service till she attained the age of 60 years.

6. The scope of the dispute between the parties was as to what was the proper age of retirement and we do not think it is necessary to decide beyond what has been said and the intervenors are not entitled to expand the scope of the dispute.

7. The appeal has, therefore, to fail and is dismissed. Under this Court's order a sum of Rs. 2000 has been paid by the appellant to meet the cost of the litigation of the respondent. We make no further order for costs in the appeal.

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