

B. P. Singh and Others

Vs

Director General, Ordnance Factory and Others

Writ Petition (Civil) No. 118 of 1987 with C.M.P. Nos. 2663-64 of 1987

(Kuldip Singh, N. M. Kasliwal JJ)

09.07.1991

JUDGMENT

KULDIP SINGH, J

1. B.P. Singh and nine other teachers employed in the schools run by the Ordnance Factories at Kanpur and Muradnagar, have filed this petition under Article 32 of the Constitution of India challenging their retirement from service on attaining the age of 58 years. The claim that they are entitled to have the age of superannuation fixed at 60 years instead of 58 years.
2. Mr. O.P. Sharma, learned counsel appearing for the petitioners, has contended that the age of superannuation of the teachers working in the schools controlled by various departments of Government of India other than the Defence Department has been enhanced to 60 years and according to him there is no jurisdiction to single out the teachers working in the schools run by the Ordnance Factories under the control of the Defence Department of Government of India.
3. Mr. Sharma has relied upon a Memorandum issued by the Government of India, Ministry of Education dated September 6, 1983 by which the age of retirement of Delhi School Teachers and teachers in other Union territories was raised to 60 years. He has also relied on a Memorandum dated March 9, 1984 issued by the Railway Board wherein the age to superannuation of the teachers working in the Railway schools was also enhanced to 60 years.
4. Mr. Sharma has thus argued that the action of the respondents in retiring the petitioners at the age of 58 years whereas retaining similarly situated teachers working in other departments of Government of India up to the age of 60 years, is discriminatory and as such violative of Articles 14 and 16 of the Constitution of India. Prima facie there seems to be force in the argument but in view of the Office Memorandum dated March 10, 1989 issued by the Government of India, Ministry of Personnel, New Delhi, it is not necessary to examine the same. Shri N. Siva Subramaniam, Joint Secretary, Ministry of Defence has, along with an additional affidavit dated March 16, 1989 filed the said Memorandum in this Court which is reproduced hereunder :

"As the Ministry of Human Resource Development etc. are aware, the age of superannuation for all Central Government employees, save with the exception of a few categories, has been fixed at 58 years and they are to retire on the last day of the month in which they attain that age. However, there is no uniformity in the age of superannuation of teachers in various schools/institutions in the Central Government.

2. In the light of the observations of the Fourth Central Pay Commission regarding

the age of retirement of the Central Government employees, the government has reviewed the entire question de novo and it has now been decided that the age of retirement on superannuation of all teachers working in Central Government departments and organisations including Union territories may be uniformly fixed at 58 years, whether they are in the Ministry of Education, Ministry of Railways, Ministry of Defence or any other Ministry/department or in Delhi Administration. Consequently, in schools/institutions where the age of retirement on superannuation for teachers is presently fixed at 58 years, no change is required to be made and the incumbents as well as future recruits shall retire on attaining the age of 58 years. However, in regard to schools/institutions where the age of retirement on superannuation for teachers is presently fixed at 60 years, the same shall be lowered to 58 years w.e.f. April 1, 1989 with the exception that the teachers who had joined such schools/institutions prior to this date, shall continue to enjoy the existing benefit and superannuate on attaining the age of 60 years. Further, in respect of such schools/institutions, no new appointment, either on regular or ad hoc basis, shall be made between the date of this Office Memorandum and April 1, 1989."

5. It is thus obvious that with effect from April 1, 1989 the age of superannuation of all teachers working in Central Government departments and organisations including Union territories has been uniformly fixed at 58 years. The only argument advanced by Mr. Sharma has, thus been completely answered by the above-quoted Office Memorandum.

6. The writ petition is, therefore, dismissed with no order as to costs.

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