

K. Chelliah

Vs

Industrial Finance Corporation of India and anothers

Civil Appeal No.2386 of 1980

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

29.10.1991

JUDGMENT

1. The appellant was an employee in the Industrial Finance Corporation of India. When he crossed 50 and before reaching 55, he was compulsorily retired from service in exercise of the powers in Regulation 33(1) of the Staff Regulations of the Industrial Finance Corporation of India. The case of the appellant is that Regulation 33(1) could be invoked subject to Explanation III to the Regulations. This contention was not accepted by the High Court and hence this appeal. For immediate reference the Relation 33(1) and the Explanation III are set out hereunder:

"33 Superannuation and Retirement.

(i) An employee, other than an employee in Class IV, shall retire on completion of fifty eight (58) years of age, whereas an employee in Class IV, shall retire when he attains the age of 60 years. The Corporation shall, however, have absolute right to retire an employee, if it considers necessary to do so in the interest of the corporation, by giving him notice of not less than three months in writing, on completion of 30 years of service or 50 years of age, whichever shall first happen, or at any time thereafter. Such option to retire from the service shall also be available to an employee, in any class, after he completes 30 years of service or attains the age of 55 years, by giving three months notice in writing to the competent authority.

x      x      x      x      x      x      x

x      x      x      x      x      x      x

Explanation - III : In order to implement the power to retire an employee as mentioned in Sub-Regulation (1) above, the Corporation shall review the cases of such employees six months before they attain the age of 50 years and 55 years before they complete 30 years of service for which purpose special review committee shall be constituted by the Chairman for making recommendations in the matter.

x      x      x      x      x      x      x

x      x      x      x      x      x      x

2. The appellant was born on 3rd December, 1922 and he completed 50 years on 3rd December

1972. He reached 55 years of age on 3rd December 1977 and completed 30 years of service on 1 June 1980. His case was referred to the Review Committee on 8 September 1977 and he was compulsorily retired on 17 October 1977. The contention for the appellant is that his case had not been referred to the Review Committee, six months prior to his completing 55 years, namely, 3 December 1977 and consequently the Regulation had not been complied with. This contention, however, is without merit. Regulation 33(1) deals with two stages of compulsory retirement, namely, (i) when an employee has completed 30 years of service or 50 years of age which shall first happen; and (ii) at any time thereafter. The Explanation (III) deals with the stages of reviewing the cases for compulsory retirement; that is six months before one attains the age of 50 years and 55 years before completing 30 years of service. There is no provision in Explanation III to deal with a case where a person could be compulsorily retired at any time after the completion of 30 years of service or 50 years of age, whichever shall first happen. That does not mean that the amplitude of power conferred under Regulation 33(1) has been cut down by the procedural restriction contained in Explanation III. Indeed, Explanation III cannot cut down the scope of Regulation 33(1). It is an independent and self-contained provision, and there is no restriction in the Regulation to the exercise of the power. The procedural formality prescribed in Explanation III cannot whittle down the scope of Regulation 33.

3. In this view of the matter we agree with the view expressed by the High Court and dismiss the appeal. In the circumstances of the case, we make no order as to costs.

Appeal dismissed.

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