

Ramswaroop Masawan

Vs

Municipal Council and Another

Civil Appeal No. 11533 of 1995

(S. P. Bharucha, V. N. Khare JJ)

22.04.1998

ORDER

1. The appellant was employed by the first respondent Municipal Council as an Overseer. He reached the age of superannuation, which was 55, on 26-1-1970. He continued to work as an Overseer until 30-7-1970 when he was served with an order dated 25-1-1970/12-2-19970. The order stated that he would retire in the afternoon of 26-1-1970 having attained the age of 55 years. In the meantime, on 1-4-1970, the age of superannuation was raised to 58 and retiring Overseers became entitled to retiral benefits.

2. The benefit of service up to the age of 58 years and retiral benefits having been to him, the appellant moved the High Court of Madhya Pradesh by way of a writ petition. The writ petition was dismissed. The High Court stated -

"If the petitioner was allowed to work after 26-1-1970 it is apparent that the period up to which he continued to work was the period of re-employment. The said continuance did not confer any right to receive the pensionary benefits."

3. In our view, the High Court was right. At the relevant time the age of superannuation was 55 years. The appellant stood superannuated on reaching that age and, law his continuance in service thereafter can only be treated as re-employment. In the Municipal Council in question no retiral benefits were available to Overseers who retired on 26-1-1970. Therefore, the appellant could not legitimately make a claim thereto.

4. The appeal is dismissed. No order as to costs.