

Haryana State Minor Irrigation Tubewell Corporation and Others

Vs

Madan Lal Kohli and Others

Civil Appeals Nos. 12026-30 of 1996

(Sujata V. Manohar, S. Rajendra Babu JJ)

17.09.1998

JUDGMENT

RAJENDRA BABU, J.

1. The respondents are Class III regular work-charged employees of the appellant which is a public sector undertaking engaged in the promotion, installation and management of tubewells and other minor irrigation projects in the State of Haryana. The orders made by the appellants retiring the respondents at the age of 58 years under Standing Order 16-A of the certified Standing Orders were challenged in the writ petitions before the High Court of Punjab and Haryana. The learned Single Judge allowed the writ petition filed by M. L. Kohli and directed the Corporation to reinstate him until he attained the age of 60 years and to pay arrears of salary and allowances. Letters patent appeal preferred against the said order was dismissed. Following the order in letters patent appeal, the other writ petitions filed by the respondents were also disposed of on the same terms. The appellants are before us challenging the said order made in the letters patent appeal and the orders in writ petitions.

2. The learned Single Judge noticed that there are two categories of employees - (i) Class III regular employees and (ii) Class IV and work-charged employees whether regular, temporary or ad hoc. Work-charged employees and Class IV employees were put in one category and Class III regular employees were put in another category. On that basis, he held that a work-charged employee not possessing any security of service is enabled to have a longer period of service and he will have the benefit of two extra years of service before retirement. Such a conclusion was reached on the basis of the intention apparent from the rules. This view was accepted by the Division Bench which stated that that was the only interpretation which was possible on the Standing Order.

3. In this Court, Shri K. T. S. Tulsi, learned Senior Advocate for the appellants, submitted that a reading of Standing Order 16-A will not enable an interpretation of the nature drawn by the High Court. The distinction sought to be made between two classes of workmen, namely, those in the work-charged establishment and the other regular employees was artificial and it does not stand to reason at all that the temporary employees could continue after 60 years whereas the regular employees will have to retire at the age of 58 years. He maintained that the intention of Standing Order 16-A was to retire Class IV employees at the age of 60 years and Class III employees at the age of 58 years and that inasmuch as the respondents were class III employees, they were to retire on attaining the age of 58 years.

4. It is pointed out that there are two grades of employees in the Haryana Government, namely, Grade III and Grade IV. Grade III employees would retire at the age of 58 years whereas Grade IV

employees would retire at the age of 60 years in the Haryana Government. The same principle was extended to the employees of the appellant-Corporation. This practice has been followed right from the inception of the Corporation. All employees who were in Grade III, whether permanent or regular, regular or temporary work-charged retired at the age of 58 years whereas Grade IV employees, whether permanent or regular workmen, or temporary or regular work-charged workmen retired at the age of 60 years. This position has been made very clear now in the affidavit filed by the Managing Director of the Corporation before this Court. All workmen, regular workmen as well as regular or temporary work-charged workmen of the Corporation would retire at the age of 58 years. However Grade IV employees, whether permanent or regular workmen, or temporary or regular work-charged workmen would retire at the age of 60 years.

5. Learned counsel for the respondents strongly supported the view of the High Court. To appreciate correctly the contention put forth on behalf of the parties, it is necessary to set out the relevant Standing Order which reads as under :

"16-A. Retirement. - The workman attaining the age of superannuation, i.e., 58 years in the case of regular workmen and 60 years in the case of regular workmen of the status of Class IV of the Government and temporary work-charged and regular work-charged workmen, shall retire. The appointing authority, however, retains an absolute right to retire any workman except of the status of Class IV in the government service on or after he has attained the age of 55 years if his work is not found to be thoroughly satisfactory. A corresponding right is also available to such a workman to retire on or after he has attained the age of 55 years."

6. A careful reading of this Standing Order would indicate that the age of superannuation of all workmen is 58 years and in the case of regular workmen in the status of Class IV of the Government and temporary work-charged and regular work-charged workmen, who answer the description of Class IV would retire at the age of 60 years. In other words, the Standing Order provides that all persons engaged on a regular basis against a regular post will fall into one category who would retire at the age of 58 years. Class IV is separately carved out into a different category. In that category, workmen are enabled to have a longer period of service, namely, 60 years and all workmen, whether regular or temporary are enabled to have a longer period of service whereas in the other category, namely, Class III, the employees would retire at the age of 58 years. Any other interpretation of the Standing Order would lead to anomalous and startling results. If the Corporation has chosen to give a benefit only to Class IV employees and not to Class III employees, no fault can be found with them. The only challenge before the High Court was as to the applicability of Standing Order 16-A and the manner in which the same should be applied. No other question was raised.

7. In the circumstances, these appeals are allowed and the order made by the High Court in letters patent appeal affirming the order made in the writ petition or the order in the writ petitions shall stand set aside and the writ petitions filed by the respondents shall stand dismissed. In the circumstances of the case, there shall, however, be no order as to costs.