

**(2006) 11 JH CK 0011**  
**In the Jharkhand High Court**

Ashok Kumar Saha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 16-11-2006

**Acts Referred:**

**Citation :** (2007) 1 JCR 419

**Hon'ble Judges :** Permod Kohli, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Permod Kohli, J.—Petitioner is a Class-IV employee of Giridih Central Cooperative Bank Limited, a society registered under the Bihar & Orissa Co-operative Societies Act, 1935 (now Jharkhand Co-operative Societies Act, 1935, as adopted by the State of Jharkhand). He has approached this Court seeking a direction upon the respondents for enhancement of age of retirement from 58 years to 60 years on the basis of similar decision, taken by the State Government vide Resolution No. 5826 dated 26th October, 2004, enhancing the age of retirement of the State Government employees from 58 years to 60 years and on the strength of letter dated 27th November, 2004, issued by respondent No. 3 to respondent No. 2, extending similar benefit to the employees of the Co-operative Bank. Petitioner has also relied upon the communication dated 8th December, 2004, whereby, respondent No. 4, Managing Director of the Bank, has requested respondent No. 3 for implementation of the decision of the State Government for extending the age of retirement in respect to the employees of the Co-operative Banks. Petitioner has further referred to various decisions, taken by the Jharkhand State Electricity Board, Ranchi and other Bodies, who have also granted similar benefit to their employees.

2. It is contended that the Co-operative bank, being wholly controlled by the State Government, its employees are entitled to similar treatment, as given to the State Government employees in respect to enhancement of age. Petitioner has also referred to the decisions, rendered in W.P.(S) No. 190 of 2005 (Paresh

Chandra Sana v. State of Jharkhand and Ors.) and W.P.(S) No, 152 of 2005 (Jagat Prasad Singh v. State of Jharkhand and Ors.). The aforesaid writ petitions along with other analogous cases were filed by the employees of the Bihar State Mineral Development Corporation, Mineral Area Development Authority, Co-operative Society, Municipality and Municipal Corporations of the State of Jharkhand. In the first writ petition, which was disposed of along with W.P.(S) Nos. 272, 257 and 408 of 2005, the following directions were issued;

In the facts and circumstances, this Court directs the respondents to implement the decision already taken as early as possible and not later than 15th February, 2005, In the meantime/ those employees who retire in between 31st January, 2005 and 15th February, 2005, shall be deemed to be continuing in service.

The aforesaid directions were also followed in the later case i.e. W.P.(S) No. 152 of 2005, disposed of along with W.P.(S) Nos. 399, 406 and 415 of 2005.

3. It is the admitted case of the parties that pursuant to the recommendations of respondent nos. 3 and 4, the State Government passed Order No. 1879 dated 28th December, 2005, whereby, age of retirement of the employees of Co-operative Societies has been enhanced from 58 years to 60 years prospectively from the date of order by amending the Service Rules for the Staff of the Central Cooperative Banks in Bihar.

4. The respondents have resisted the prayer, made in the writ application, on the grounds (i) that the age of retirement of the Cooperative Bank employees is governed and regulated by Rule 21 of the Service Rules for the Staff of Central Co-operative Bank's in Bihar, framed in exercise of power conferred u/s 66(B) of the Jharkhand Co-operative Societies Act, 1935; (ii) that the Co-operative Bank employees cannot be equated with the employees of the State Government, they being the employees of the Society and not of the department of the State Government; and (iii) that the Bank has financial crunch and cannot bear the burden of enhancement of age.

5. As far the order dated 28th December, 2005 is concerned, by virtue of this order, Rule 21 of the Service Rules for the Staff of the Central Co-operative Banks in Bihar has been amended and the age of retirement of the employees of Co-operative Banks in the State of Jharkhand has been enhanced from 58 years to 60 years prospectively i.e. with effect from the date of issuance of this order. Clause 5 of this order makes the order applicable for enhancement of age from the date of issuance of this order. It is this clause 5, which has been called in question in this writ petition, on the grounds, referred to hereinabove.

6. It is not in dispute that the service conditions of the employees of the Co-operative Banks are governed by the Service Rules for the staffs of Central Co-operative Banks in Bihar, framed u/s 66(B) of the Jharkhand Co-operative Societies Act, 1935, as notified vide Notification No. 226/10/Bank (Estb.) 28-93 dated 1.2.1994. Rule 21 in Chapter-VII! of the aforesaid Rules reads as under:

21. An employee of the Bank shall retire from the service of the Bank on attaining the age of 58 years.

7. Admittedly, the age of retirement is regulated by the statutory rules. Rule 21 has been amended and the age of retirement of the employees of Co-operative Banks stands enhanced from 58 years to 60 years, but prospectively with effect from 28th December, 2005. In the meanwhile, the petitioner has retired on 31st August, 2005 for which he was intimated vide letter dated 8th August, 2005 regarding his scheduled date of retirement on attaining 58 years of age. This letter is also subject matter of challenge in this writ petition.

8. Though both the sides addressed lengthy arguments, however, the issue having been determined by a Division Bench of this Court in W.P.(S) No. 1734 of 2006, decided on 15th May, 2006, this writ petition needs to be decided without going into the respective contentions of the parties. The Hon'ble Division Bench while considering the same very order i.e. Resolution No. 1879 dated 28th December, 2005, impugned in this petition, has held as under:

9. In this background, we hold that Resolution No. 1879 dated 28th December, 2005 has prospective effect, Rule 21 of the Service Rules having been amended from the said date i.e. 28th December, 2005. As such, the employees of the Co-operative Bank, who attained 58 years of age prior to December, 2005, can not derive advantage of Resolution No. 1879 dated 28th December, 2005.

9. In view of the aforesaid decision of the Division Bench of this Court, which has binding force over the writ court, this petition is hereby dismissed. However, in the facts and circumstances, there shall be no order as to costs.