
(2006) 01 AHC CK 0133

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 48661 of 1999

Baij Nath Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-01-2006

Acts Referred:

Uttar Pradesh Consolidation Lekhpal Services Rules, 1978 — Rule 2

Citation : (2006) 01 AHC CK 0133

Hon'ble Judges : V.C.Misra, J

Final Decision : Allowed

Judgement

V.C. Misra, J.—Heard Shri Jokhan Prasad learned Counsel for the petitioner and the learned Standing Counsel on behalf of the respondents. On the joint request of learned Counsel for the parties this writ petition is disposed off at this stage in terms of the High Court Rules.

2. This writ petition has been filed challenging the retirement of the petitioner at the age of 58 years who is admittedly a consolidated Lekhpal, and as per the contention of the petitioner he was required to be retired at the age of 60 years in accordance with law. Being aggrieved the petitioner filed the present writ petition and vide interim order dated 29.11.1999 he was allowed to continue to work till he attained the age of 60 years. The respondents were also directed to pay the salary to the petitioner accordingly. The petitioner has during the pendency of the writ petition retired and has now claimed that his retiral benefits be calculated at the age of 60 years and be released in his favour. Counter affidavit has been filed and it has been submitted that the petitioner has been rightly retired at the age of 58 years as he did not belong to group "D" of Class IV employee.

3. I have perused the record and the service rules of U.P. Consolidation Lekhpal Service Rules, 1978. Rule, 2 reads as under :

"2. Status. The Uttar Pradesh Consolidation Lekhpal Service Comprises Group

"D" posts."

4. From Rules it is clear that the services of Lekhpal consolidation belongs to group "D" and as per proviso to fundamental Rule 56 the age of 58 years for superannuation in respect of Government servant recruited before 5.11.1985 and holding group "D" post shall retire from service on the afternoon of the month in which he attains the age of 60 (sixty) years. Rule 56, is quoted below :

"56 (a) Except as otherwise provided in other clauses of this rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of fiftyeight years. He may be retained in service after the date of retirement of superannuation, with the sanction of the Government, on public grounds, which must be recorded in writing, but he must not be retained after the age of 60 years except in very special circumstances :

Provided that a Government servant, recruited before 5.11.1985 and holding the Group "D" post shall retire from service on the afternoon of the month in which he attains the age of 60 (sixty) years."

5. Similar matters relating to retirement of the consolidation Lekhpals came up before this Court wherein also in Writ Petition No. 245 (S/S) of 1999, Ram Deen v. State of U.P. and others, decided on 12.3.1999 along with the cases of other petitioners and Writ Petition No. 9696 of 1999, Kishori Ram v. State of U.P. and others, decided on 5.10.1999, it has been held that the retirement date in respect with consolidation Lekhpal would be 60 years. The present petitioner is also entitled for the same relief claimed for. In view of the same, the impugned order notice dated 22.10.1999 (Annexure 2 to the writ petition) is hereby quashed. The respondents shall release all retiral benefits and emoluments to which the petitioner would be entitled to taking into consideration his superannuation age as 60 years. The writ petition is allowed. No order as to costs. Petition allowed.