

(2007) 02 PAT CK 0178
In the Patna High Court
Case No : CWJC No. 6200 of 2005

Bal Govind Prasad and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 26-02-2007

Acts Referred:

Citation : (2007) PLJR 369

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Katriar, J.—Heard Mr. Birendra Narayan Sharma for the petitioners, and Mr. Arup Kumar, JC to AAG II for the respondents. This writ petition has been preferred for a direction to the respondent authorities to modify resolution No. 1500, dated 24.3.2005 (Annexure 4), issued by the Government of Bihar in the Department of Finance, whereby the age of superannuation of the employees of the Bihar Government has been enhanced from 58 to 60 years. The resolution further states that it shall come into effect forthwith, and the petitioners pray that the same be made applicable from an earlier date. I have perused the material on record and considered the submissions of learned counsel for the parties. The State Government and the Joint Co-ordination Committee of the Employees' Federation of the employees of the Government of Bihar entered into an agreement dated 7.5.1999 (Annexure 1), whereby the State Government agreed that retirement of the employees now covered by the agreement shall be enhanced from 58 years to 60 years. This was followed by the aforesaid Government resolution dated 24.3.05 (Annexure 4), enhancing the retirement age from 58 years to 60 years with immediate effect as a result of which the employees of the State Government covered by the resolution reaching 58 years of age after issuance of the resolution shall retire after completion of 60 years of age. The petitioners completed 58 years of age prior to 24.3.2005 and have, therefore, been deprived of the benefit of enhancement of retirement age. Law is

well settled that fixation of age of retirement is an executive function and the Court should desist from interference with the same so long it does not violate the constitutional norms. No such case has been made out by the petitioners.

2. Selection of a date for enforcement of a policy decision or an action taken is subject to judicial scrutiny under limited circumstances, and surely not if it is not discriminatory or arbitrary. A date has after all to be fixed for commencement or enforcement of a legislation or policy decision. Even if no particular reason is forthcoming for the choice of date unless it is shown to be capricious or whimsical, the choice of the legislature must be accepted. If that were not so, it will not be possible to enforce a legislation or a policy decision at all. Reference may be made to the judgment of the Supreme Court in the case of *Union of India (UOI) and Another Vs. Parameswaran Match Works and Others*, of which is reproduced herein below:

"The choice of a date as a basis for classification can always be dubbed as arbitrary even if no particular reason is forthcoming for the choice unless it is shown to be capricious or whimsical in the circumstances, when it is seen that a line or a point there must be and there is no mathematical or logical way of fixing it precisely, the decision of the legislature or its delegate must be accepted unless we can say that it is very wide off reasonable mark."

No case has been made out by the petitioner that Annexure-4 violates any constitutional norm, or it violates the equality clause, or is arbitrary, capricious or whimsical. In that view of the matter, I do not find any merit in this writ petition. It is accordingly dismissed.