

(2008) 11 PAT CK 0011
In the Patna High Court
Case No : CWJC No. 8670 of 2008

Braj Mohan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-11-2008

Acts Referred:

Citation : (2009) 3 PLJR 985

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

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Katriar, J.—Heard Mr. Shyama Prasad Mukherjee for the petitioner Mr. Anil Kumar Verma, learned Junior Counsel to Standing Counsel No. 3 for respondent Nos. 1, 2 and 5, and Mr. Y.V. Giri for respondent Nos. 3 and 4 (The Chairman, Bihar State Ware Housing Corporation and the Managing Director, Bihar State Ware Housing Corporation. The sole petitioner seeks a direction to the respondent authorities to enhance the retirement age of the employees of the respondent-Corporation including the petitioner from 58 years to 60 years. The claim is basically founded on the notification of the State Government dated 24.3.2005, whereby the retirement age of the employees of the Bihar Government was enhanced from 58 years to 60 years with immediate effect. The public sector undertakings of the Bihar Government passed their separate resolutions enhancing the retirement age from 58 years to 60 years, and invariably referred the same to the State Government for approval. It appears from the pattern of litigations in this Court that the State Government did not take a consistent stand. It gave rise to a large number of writ petitions in this Court. A few of the writ petitions have been disposed of by this Court, whereby it has been held that the retirement age of the employee of the public sector undertakings of the Bihar Government would be enhanced from 58 years to 60 years from the date of notification of the State Government. In so far as the present case is concerned, learned Government counsel has placed before me a

copy of letter No. 4379, dated 31.10.2008, from the State Government in the Co-operative Department, to the Managing Director, conveying the State Government decision to enhance the retirement age of the employees of the Corporation from 58 years to 60 years. He has placed before me a copy of letter No. 4417, dated 7.11.2008 from the State Government in the Department of Co-operative to the learned Standing Counsel No. 3, whereby he has been informed that the State Government has taken the decision to enhance the age of retirement of the employees of the respondent-Corporation from 58 years to 60 years.

2. Learned Government Counsel submits that in view of the language used in the letter dated 31.10.2008, the retirement age has been enhanced with immediate effect which would mean the date of issuance of letter dated 31.10.2008. I am able to accept the submission for various reasons. All the public sector undertakings of the Bihar Government have acted solely and entirely on the basis of the said notification dated 24.3.2005 of the State Government. It could not be enforced with effect from 24.3.2005, in so far public sector undertakings are concerned, because of the delay attributable to the Corporation as well as the State Government. Secondly, the inconsistent approach of the State Government was also contributed to it. Thirdly, it has been decided in a few of the writ petitions by this Court that the employees of the public sector undertakings shall get the benefit of retirement age with effect from the date of the notification of the State Government, being the mother notification. Any other approach as has been canvassed by the learned Standing Counsel will result in discriminatory treatment to the employees of the public sector undertakings.

3. In the result, this writ petition is disposed of with the direction to the respondent authorities to give to the petitioner the benefit of enhancement age from age 58 years to 60 years. He shall be entitled to arrears of salary and consequential benefits. The writ petition is accordingly allowed.