

(2013) 10 AHC CK 0018

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No"s. 58263, 58266, 58269, 58271, 58388 and 58389 of 2013

Dr. Shiv Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-10-2013

Acts Referred:

Citation : (2013) 9 ADJ 703 : (2013) 9 ADJ 490 : (2014) 2 ALJ 640 : (2013) 101 ALR 838

Hon'ble Judges : Rajes Kumar, J;Mahesh Chandra Tripathi, J

Bench : Division Bench

Advocate : R.P. Dubey, for the Appellant; Sanjay Kumar Singh, Neeraj Tiwari and Vivek Varma, for the Respondent

Judgement

1. Heard learned counsel for the parties. The petitioners retired as Readers, Lecturer/Associate Professor/Associate Professor/Reader. They claimed that their age of retirement should be 65 years while the claim of the State Government was that the age of retirement is 62 years. Matter went upto the Apex Court. In Civil Appeal Nos. 5527-5543 of 2013, Jagdish Prasad Sharma etc. v. State of Bihar and others and in other connected appeals arising from the State of U.P., the Apex Court vide order dated 17.7.2013 has held that the age of retirement is 62 years and the claim of the petitioners that the age of retirement should be 65 years has been rejected. Before the Apex Court, it was also contended that some of the teachers, Professors, Readers etc. worked on the basis of the interim order after 62 years and, therefore, they are also entitled for the benefit of service. In respect of such claim, the Apex Court observed that "However, persons, who have continued to work on the basis of the interim orders passed by this Court or any other Court, shall not be denied the benefit of service during the said period."

2. Learned counsel for the petitioners submitted that since the petitioners worked after the age of 62 years on the basis of the interim order thus are entitled for the salary for the period during which they have worked in view of

the aforesaid directions of the Apex Court.

3. Learned Standing Counsel submitted that in view of the direction of the Apex Court, the petitioners are entitled for the salary for the period during which they worked in view of the interim order of the Apex Court but their post retiral benefits will be calculated on the basis of the salary drawn by the petitioners on the date when they have been superannuated after attaining the age of 62 years.

4. We have considered the rival submissions. We find substance in the argument of learned counsel for the petitioners as well learned Standing Counsel.

5. In view of the above, the writ petition is disposed of with the direction that the petitioners are entitled for the salary for the period, during which they have worked in view of the interim order granted by any Court or by the Apex Court even after attaining the age of 62 years but their post retiral benefits shall be calculated on the basis of salary drawn when the petitioners attained the age of superannuation, i.e. 62 years. Respondents Nos. 2, 3 and 6 are directed to make the payment to the petitioners after necessary verification, within a period of two months as directed above from the date of presentation of the certified copy of this order in accordance to law.

6. Further it is observed that we find that number of writ petitions are being filed for seeking the aforesaid direction. In view of the above, we may observe that above direction may also apply in case of similarly situated persons and such persons instead of approaching this Court, may place our order before the authority concerned and the authority concerned is directed to comply with aforesaid direction after verification.