(2008) 01 MP CK 0061

In the Madhya Pradesh High Court

Ganesh Dutt Pandey APPELLANT

Vs

State of Madhya Pradesh and Others RESPONDENT

Date of Decision : 09-01-2008

Acts Referred:

Bank Karmachari Sewa (Niyojan, Nibandhan Tatha Unki Karya Stithi) Niyam, 1982 — Rule 72(1)

Citation : (2008) ILR (MP) 457 : (2008) 1 MPHT 282 : (2008) 2 MPLJ 124

Hon'ble Judges : R.S. Jha, J;Dipak Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.S. Jha, J.

The petitioner has filed this petition challenging the constitutionality of the amendment made by the respondent No. 2 vide order dated 3-6-2002 in Rule 72(1) of the Bank Karmachari Sewa (Niyojan, Nibandhan Tatha Unki Karya Stithi) Niyam, 1982, whereby the age of the superannuation of the petitioner has been reduced from 60 years to 58 years. The petitioner has also sought quashing of order dated 18-7-2006 issued by respondent Nos. 3 and 4 by which the petitioner has been superannuated with effect from 10-10-2006 on completing the age of 58 years. The petitioner has also claimed relief of a direction to the respondents to continue him in service till the age of 60 years.

The petitioner has challenged the legal validity of the Rules on the ground that the Rules have been made and notified without complying with the mandatory condition prescribed u/s 95(3) of the M.P. Co-operative Societies Act, 1960 (hereinafter referred to as ''the Act'') which provides that all rules made under the Act shall be laid on the table of the Legislative Assembly and as the impugned rules have not been laid before the table of the Legislative Assembly, the impugned amendment deserves to be quashed.

The respondents, per contra, have opposed the petition on the ground that the respondent No. 2, Registrar, has been given powers u/s 55 (1) of the Act to frame rules governing the terms and conditions of employment in a Society or Class of Societies and the Registrar, in exercise of this power, has amended the rules governing the services of the employees working in Co-operative Banks in the State of M.P. In the return, the respondents have also stated that the respondent No. 4, Central Co-operative Bank who controls respondent No. 3, sent a proposal approved by its Board of Directors, to the Registrar requesting him to amend the service rules by reducing the age of superannuation to 58 years as the financial position of the bank was not strong enough to be able to bear the financial burden resulting from the increased age of superannuation. The respondents have also filed a copy of the order passed by this Court on 26-11-2002 in Writ Petition No. 6323/2002 wherein the validity of the provisions of Section 55(1) of the Act has been upheld and a similar order issued by the Registrar reducing the age of superannuation from 60 years to 58 years has also been upheld.

From a perusal of Section 95 which has been heavily relied upon by the petitioner in support of his submissions, it is manifestly clear that the section enables the State Government to frame rules for the purposes of the Act with a stipulation in Sub-section (3) that all rules framed by the State shall be laid on the table of the Legislative Assembly. Apparently, Sub-section (3) relates to rules framed by the State Government for the purposes of the Act and has no applicability to an order by which rules regarding service conditions in a Co-operative Society are framed by the Registrar u/s 55(1) of the Act. As is evident, Section 55(1) is a separate provision giving powers to the Registrar to frame rules governing the terms and conditions of the employment in a Society. It is also manifestly clear that Section 55 and Section 95 do not provide that the rules framed by the Registrar would also have to be laid before the table of the Legislative Assembly. In the circumstances, we are of the considered opinion that the contention of the petitioner based on Section 95(3) is misplaced and misconceived and deserves to be rejected.

The petitioner has challenged the reduction in the age of superannuation made by an amendment to the concerned rules vide order dated 3-6-2002 which came into effect from 1-9-2002, by filing a petition in 2006 after a long lapse of four years. As is clear from the return filed by the respondents, the said reduction in the age of superannuation has been made pursuant to a proposal and request made by the Central Co-operative Bank by forwarding a resolution passed by its Board of Directors to this effect to the Registrar on account of financial difficulty and, therefore, the impugned reduction in the age of superannuation cannot be said to be an instance of arbitrary and unreasonable exercise of powers by the Registrar as it is based on the request and proposal of the Central Co-operative Bank made on the basis of the financial inability of the bank to meet with the extra financial burden resulting from the enhanced age of superannuation.

Quite apart from the above a Division Bench of this Court in Writ Petition No.

6323/2002 has upheld the exercise of such statutory powers by the Registrar whereby the age of superannuation was reduced from 60 years to 58 years and has dismissed the petition filed by the petitioners therein. It is settled law that alteration in the age of retirement by the employers is a matter of executive policy and is permissible for sufficient and cogent reasons as has been held by the Supreme Court in Paragraph 45 of the judgment in the case of M.P. Vidyut Karamchari Sangh Vs. M.P. Electricity Board, , relying on K. Nagaraj and Others Vs. State of Andhra Pradesh and Another, , Osmania University Vs. V.S. Muthurangam and others, , N. Lakshmana Rao and Others Vs. State of Karnataka and Others, and Chandra Singh Vs. State of Rajasthan and Another, .

In view of the above, we do not find any merit in the petition challenging the impugned amendment in the concerned rules governing the services of Central Co-operative Bank Employees, by respondent Nos. 3 and 4, vide order dated 3-6-2002. Consequently, we also do not find any infirmity or illegality in the order dated 18-7-2006 superannuating the petitioner on his completing the age of 58 years. The petition being meritless is accordingly dismissed.

