
(1995) 08 AHC CK 0057
In the Allahabad High Court
Case No : C.M.W.P. No. 206 of 1995

Jagdish Narain

APPELLANT

Vs

U.P.S.R.T.C. and Another

RESPONDENT

Date of Decision : 31-08-1995

Acts Referred:

Industrial Employment (Standing Orders) Act, 1946 — Section 13B

Citation : (1996) AWC 478 Supp

Hon'ble Judges : A. Chakrabarti, J

Bench : Single Bench

Advocate : V.K. Barman, for the Appellant;

Final Decision : Dismissed

Judgement

A. Chakrabarti, J.—The Petitioner has challenged the order dated 19.4.1994 (Annexure-1 to the writ petition) whereby he was to retire after 30.6.1994 on superannuation.

2. The case of the Petitioner is that he entered into service in U.P. Government Roadways, Kanpur in its central workshop as an unpaid apprentice on 10.8.1953 and worked till 31.5.1955 as apprentice. The Petitioner thereafter continued in service as regular until he was made to retire with effect from 30.6.1994 by order dated 19.4.1994. The U.P. State Road Transport Corporation was divided into four zones and in turn the zones are sub-divided into regions. Each zone is looked after by a Deputy General Manager. Besides the zones and regions, there are two workshops known as Central Workshop and Allen Forest Workshop, which are separate units of the Corporation. The Petitioner's service was in the said Central Workshop wherein since 1965 Certified Standing Orders came in force. According to the Petitioner, he was entitled to continue in service till he attained the age of 60 years and accordingly, he filed the present writ petition challenging the said order of retirement.

3. The Respondents filed counter-affidavit and contested the proceeding to which

the Petitioner filed a rejoinder-affidavit.

4. The contention of the Petitioner is that the Regulation clearly provided that age of superannuation of class III employees was 58 years and that of the class IV employees was 60 years. So, Annexure-5 to the writ petition, according to the Petitioner, was the relevant document dated 14.12.1994 which clearly provided that all employees were to retire at the age of 58 years except those who were employed prior to 20.6.1986 and whose age of retirement was 60 years earlier. The contention of the learned Counsel for the Petitioner was that as the Regulation originally provided that retirement age of the class IV employees was 60 years, the document dated 14.12.1994 at Annexure-5 to the writ petition could not relate to class IV employees and necessary conclusion would be that class III employees were also entitled to get benefit of age of superannuation at 60 years by the said document.

5. The learned Counsel for the Respondents first contended that the question involved herein has been finally decided in the case of Bachai Lal v. U.P. State Road Transport Corporation 1991 (2) UPLBEC 1095, which has since been affirmed in Special Appeal No. 91 of 1991. It has been contended that the said case decided was in respect of employees of Central Workshop where standing Order was there.

6. It has further been contended by the learned Counsel for the Respondents that even in Units of the Respondents wherein no standing Orders were enforced, similar position has been declared in the case of Sabkapati Singh v. U.P. State Road Transport Corporation Lucknow and Anr. 1993 (2) AWC 1281.

7. Over and above the said arguments, learned Counsel for the Respondents also referred to the facts of the case and contended that the resolution on the basis of which the document dated 14.12.1994 at Annexure-5 to the writ petition was issued, has been made Annexure-1 to the counter-affidavit. The said Annexure shows that the document dated 14.12.1994 was apparently Issued containing mistakes. It has been stated that necessary corrections of the document at Annexure-5 was incorporated in view of the said mistake by Annexure-2 to the counter-affidavit.

8. In the aforesaid circumstances the learned Counsel for the Respondents contends that the Petitioner is not entitled to any relief in the present writ petition in the facts of the case and moreover the question having been already decided finally, the same is not open to be challenged by the Petitioner in the present writ petition. Learned Counsel for the Petitioner contends that the document at Annexure-2 to the counter-affidavit is misleading one and cannot decide the position.

9. The judgment in the case of Bachai Lal (supra) considers the matter in detail and thereupon it has been held therein that any order retiring workman of the workshop at the age of 58 years before 12.4.1991 will be illegal having been passed in contravention of Certified Standing Orders which provided the age of

retirement at 60 years. But, it has been held there that u/s 13B of the Industrial Employment (Standing Orders) Act, 1946, the employees of the Corporation could be made to retire at the age of 58 years after the notification dated 12.4.1991.

10. The learned Counsel for the Petitioner referred to the judgment of the Division Bench of this Court in Civil Misc. Writ Petition No. 26243 of 1991, Sabhapati Singh v. U.P. State Road Transport Corporation and contended that it has been held therein that after the date of absorption of the employees in the Corporation, they could be retired at the age of 60 years only. The said contention of the Petitioner, even if correct, the same applies in cases of retirement before 12.4.1991. But a perusal of the said judgment shows that the Petitioners therein claiming their age of retirement as 60 years referred to the case of Bachai Lal (supra) and the writ petition was dismissed holding that the same lacked merit.

11. Thus, It is apparent that the similar contention by the employees was rejected repeatedly by the Division Bench in various cases. Further, the contention of the Petitioner relying on Annexure-5 to the writ petition has also no merit as the same has been since corrected by the document at Annexure-2 to the counter-affidavit.

12. Accordingly, the present writ petition has no merit and the same is hereby dismissed. There will be no order as to costs.