

(2011) 11 SC CK 0041
In the Supreme Court Of India
Case No : SLP (C) No. 18316 of 2006

Jharkhand State Mineral Dev. Corpn. and Others	APPELLANT
Vs	
Lakhan Nath Goswami and Others	RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2012) 2 JCR 87

Hon'ble Judges : Ranjana Prakash Desai, J; Cyriac Joseph, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The challenge in this SLP is against the order dated 10.5.2006 passed by the High Court of Jharkhand dismissing LPA No. 436 of 2005. The Petitioners are the Appellants in LPA No. 436 of 2005.

2. The erstwhile Eastern Manganese & Minerals Ltd. was handed over by the Government of Bihar to the then Bihar State Mineral Development Corporation to manage and run the mines known as Koderma Mica Unit. The Respondents in the SLP were working in the Koderma Mica Unit. Consequent on the reorganization of States and formation of the State of Jharkhand, all the assets and liabilities of the Bihar State Mineral Development Corporation in the State of Jharkhand stood transferred to the Jharkhand State Mineral Development Corporation.

3. The State of Jharkhand took a decision on 26.10.2004 to enhance the age of retirement of its employees from 58 years to 60 years. The Board of Directors of Jharkhand State Mineral Development Corporation (petitioner No. 1 in the SLP) took a decision on 20.12.2004 to enhance the retirement age of its employees from 58 years to 60 years as per with the employees of the State Government. However, it was decided to seek the permission of the Election Commission before Implementing the above decision, as the Model Code of Conduct had already come into force on 24.9.2005. When the Model Code of Conduct ceased to be in force, the Board of Directors confirmed the decision of the Board of

Directors to enhance the retirement age from 58 years to 60 years and also resolved that the decision shall be deemed to have come into force w.e.f. 20.12.2004.

4. On 14.4.2005, the Respondents were given notice that they would be retired on attaining the age of 58 years. The Respondents filed Writ Petition No. 2247 of 2005 in the High Court of Jharkhand praying to quash the notice dated 14.4.2005. When the Writ Petition came up for hearing before the learned single Judge on. 13.5.2005, the counsel for the Petitioners and the Respondents agreed that the case was squarely covered by the judgment dated 31.1.2005 passed by the High Court in WP (S) No. 190 of 2005 and similar cases. Hence, the High Court directed the Respondents to implement the decision already taken for enhancement of retirement age from 58 years to 60 years.

5. Aggrieved by the order of the learned single Judge, the Respondents in the writ petition (petitioners in the SLP) filed LPA No. 436 of 2005 before the Division Bench of the High Court. The said appeal was dismissed on 10.5.2006 in the following terms:

Admittedly, the State Government enhanced the age of superannuation from 58 to 60 years by their Resolution dated 26th October, 2004. The Respondents/petitioners are the employees of the State and the Appellant Is only its caretaker. So that are entitled to continue in the service up to the age of 60 years.

In the aforesaid background, we find no ground made out to interfere with the order passed by the learned Single Judge. There being no merit, this appeal is dismissed.

6. Thus the Division Bench of the High Court has held that the writ Petitioners are the employees of the State of Jharkhand and the Jharkhand State Mineral Development Corporation is only its caretaker and therefore the writ Petitioners are entitled to continue in service up to the age of 60 years.

7. The State of Jharkhand has not filed any appeal against the decision of the Division Bench of the High Court in LPA No. 436 of 2005. The Jharkhand State Mineral Development Corporation has filed the present SLP. It is not disputed that the State of Jharkhand has enhanced the retirement age of its employees from 58 years to 60 years. It cannot be disputed that the age of retirement of the employees of the Jharkhand State Mineral Development Corporation stands enhanced to 60 years w.e.f. 20.12.2004. It is also not disputed that the Respondents attained the age of 58 years only after the above-mentioned decisions of the State Government and the Jharkhand State Mineral Development Corporation to enhance the age of retirement of its employees from 58 to 60 years. Therefore, whether the Respondents are the employees of the State of Jharkhand or the employees of Jharkhand State Mineral Development Corporation, they are entitled to continue in service till they attain the age of 60 years. The contention of the first Petitioner-Corporation is that the Respondents are not its employees as the first Petitioner is only the caretaker of the Koderma

Mica Unit. At the same time, it is admitted that the Respondents were being paid their wages till they attained the age of 58 years by the first Petitioner-Corporation. The State of Jharkhand has not challenged the finding of the Division Bench of the High Court that the Respondents are the employees of the State.

8. Thus whether the Respondents are the employees of the Corporation or the employees of the State Government, their age of retirement is 60 years and they shall be allowed to continue in service till they attained the age of 60 years. Whoever paid their wages till they attained the age of 58 years shall continue to pay their wages and allowances till they attain the age of 60 years.

9. It is also significant that before the learned single Judge of the High Court, Learned Counsel for the Corporation had agreed that the case was squarely covered by the judgment dated 31.1.2005 passed in WP (S) No. 190 of 2005 and similar cases. In that judgment the High Court had directed the State of Jharkhand and the Jharkhand State Mineral Development Corporation to implement the decision taken by the Board of Directors on 20.12.2004 to enhance the age of retirement of the employees from 58 years to 60 years.

10. In the above circumstances, we do not find any valid reason to interfere with the impugned judgment of the High Court.

11. The SLP is dismissed.