

(2006) 10 DEL CK 0049
In the Delhi High Court
Case No : WP (C) 5804 of 2005

Kosaraju Babu Rao

APPELLANT

Vs

AIR India

RESPONDENT

Date of Decision : 10-10-2006

Acts Referred:

Citation : (2006) 10 DEL CK 0049

Hon'ble Judges : J.M. Malik, J

Bench : Single Bench

Advocate : H.A. Ahmadi, Pradhyuman Gohil and Abhijeet Sinha, for the Appellant; Sangeeta Bharti and Brijesh Anand, for the Respondent

Judgement

J.M. Malik, J.—The short controversy which revolves round this case is, "whether the petitioner who superannuated from AIR India on attaining the age of 58 years is entitled to passages which are regulated under the Passage Regulations of AIR India as per amendment dated 22.10.1997." When the petitioner superannuated from the services of the respondent the Passage Regulations entitled all employees who had put in not less than 25 years of service to two 100% free and two 90% concessional passages every year, whereas employees, who, had put in not less than 20 years of service were entitled to one 100% free and two 90% concessional passages every year. According to amendment dated 22.10.1997, a person superannuated after having completed minimum of 20 years of service would be entitled to two free and two 90% rebated international passages and/or two free and two 95% rebated domestic passages. The respondent has declined to grant the said passage on the pretext that said regulations did not apply to persons who have retired prior to 22.10.1997. Admittedly, this is nowhere stated in the Passage Regulations that employees who are superannuated prior to 22.10.1997 are not entitled to the benefit of the amendment to the Passage Regulations dated 22.10.1997.

2. The respondent has contested this petition. The learned Counsel for the respondent has made only one short submission. She submitted that the

judgment passed in CWP No. 493 of 1999 is not applicable to the facts of this case on all fours, for twin reasons. Firstly, the said judgment was passed in respect of a person who has voluntarily retired. The observations made in the said judgment regarding persons who has superannuated are obiter dicta simplicities and secondly, the Apex Court has already held that amendment is always prospective in nature unless or until it is indicated otherwise.

3. These arguments are devoid of force. The relevant observations in the judgment in CWP No. 493 of 1999 are reproduced as here under:

The regulations did not state that they will not apply to the employees who have voluntarily retired or for that matter who may have attained the age of superannuation before the amendment. The prospective application of the regulation would imply that the benefits contained in the said regulation would apply from the date of amendment to the category of employees mentioned in it.

I find force in the submission of learned Counsel for the Petitioner that apparently the passage regulations were left unamended after the minimum period for seeking retirement was reduced from 25 years to 20 years as the Petitioner cannot be treated as a person who has retired on superannuation and thus a vacuum was left to decide the fate of persons between the period of 20 and 25 years of service with the Respondent corporation. This aspect would not require adjudication now in view of the relief being claimed only prospectively.

In view of the aforesaid position it is directed that the respondent corporation will give the benefit to the Petitioner of the amended regulations w.e.f. 22.10.1997 treating the Petitioner as an employee who was permitted to retire voluntarily after completion of not less than 20 years of service.

4. It is thus clear that there is not much distinction between a person who had voluntarily retired or a person who superannuated at the age of 58 years. Again, the petitioner will get relief with effect from the date of amendment and not prior to that. It is, Therefore, ordered that the respondent would give the benefit to the petitioner of the amended regulations with effect from 22.10.1997. No order as to costs.