
(2014) 10 RAJ CK 0047
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6032/2014

Kusum Lata Aggarwal

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 01-10-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 10 RAJ CK 0047

Hon'ble Judges : Dr. Vineet Kothari, J

Bench : Single Bench

Advocate : M.S. Purohit, Advocate for the Appellant

Judgement

Dr. Vineet Kothari, J.—The petitioner was serving as Senior Assistant, the third respondent, Bikaner Dugdh Utpadak Sahkari Sangh Ltd., Bikaner, upon achieving the age of superannuation of 58 years, was retired from the services on 31.05.2013. Later on, the respondent/employer took a decision vide Annexure-7 dated 25.07.2014, which decision was to become effective from that date only and the retirement age of its employee was increased from 58 years to 60 years.

2. The present writ petition has been filed by the petitioner on 26.08.2014 with the following prayers:-

"It is, therefore, prayed that:

i) By an appropriate writ, order or direction, the respondents be directed to extend the benefit of extension of age of superannuation to the petitioner also and the respondents be directed to continue the petitioner in service till she attains the age of 60 years with all consequential benefits. Any other appropriate writ, order or direction which this Hon"ble Court considers just and proper in the facts and circumstances of the present case, may kindly be passed in favour of the petitioner.

ii) Costs of the writ petition may kindly be awarded in favour of the petitioner."

3. Mr. M.S. Purohit, learned counsel for the petitioner urged that the petitioner has yet not completed the age of 60 years, therefore, the order (Annex. 7) dated 25.07.2014 should be made effective qua the petitioner also and he may be reinstated back in the services of the respondent while allowing him to work till he attains the age of 60 years even though the petitioner actually stood retired on 31.05.2013. He further urged that such decision has been taken by the third respondent, Dairy, in pursuance of the decision of Hon"ble Apex Court in the case of Ajmer Zila Dugdh Utpadak Sahkari Sangh & Anr. Vs. Ajmer Zila Dairy Employees Union & Ors. (Civil Appeal No. 7946/2012) decided on 08.11.2012. He, therefore, submitted that it should be deemed that the decision dated 25.07.2014 taken by the Uttari Rajasthan Sahakari Dugdh Utpadak Sangh Ltd., would apply retrospectively and consequently, the petitioner deserves to be reinstated back in service with aforesaid benefit and extended age of superannuation.

4. Having heard the learned counsel for the petitioner, this Court is of the opinion that the decision of the third respondent vide Annex. 7 dated 25.07.2014 increasing the age of superannuation from 58 years to 60 years, cannot be given any retrospective effect qua the present petitioner. The petitioner admittedly retired from the services on 31.05.2013 as per the then policy and the superannuation age of 58 years adopted by the third respondent Dairy has been increased later on, much after the retirement of the petitioner vide Annex. 7 only on 25.07.2014, which does not in turn give any retrospective effect to its decision by the employer Dairy. No such retrospectivity can otherwise also be inferred in the said Resolution. Merely because the petitioner has not yet achieved the age of 60 years by now, and had he been in the service at the time of issuance of order (Annex. 7) dated 25.07.2014, naturally he would also be entitled to the same benefit of superannuation age of 60 years, but having retired from the services much before the issuance of the order dated 25.07.2014, no reinstatement qua him on the basis of this decision increasing the superannuation age from 58 years to 60 years, could be given to the petitioner.

5. No such mandamus direction, as prayed, can be issued under the writ jurisdiction under Article 226 of the Constitution of India. The present writ petition, is therefore, found to be bereft of any force and the same is hereby dismissed. No costs. A copy of this order be sent to the concerned parties forthwith.