**(2003) 04 JH CK 0098**

**In the Jharkhand High Court**

**Case No :** L.P.A. No. 637 of 2002

Md. Noorul Hoda and Others — APPELLANT

Vs

Metallurgical and Engineering Consultants (India) Ltd. and Others — RESPONDENT

**Date of Decision :** 16-04-2003

**Acts Referred:**
Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions Act, 1978 — Section 15

**Citation :** (2004) 4 JCR 129 : (2004) 1 LLJ 787 : (2004) 4 JCR 129

**Hon'ble Judges :** Gurusharan Sharma, J;Amareshswar Sahay, J

**Bench :** Division Bench

**Advocate :** M.S. Anwar and Rajesh Kumar, for the Appellant; R.B. Mahto, K.B. Sinha and Amitabh for Respondent Nos. 1 to 3 and P.D. Agrawal, Addl S.C., for the Respondent

**Final Decision :** Dismissed

## Judgement

1. The appellants were employed in the erstwhile, Hindustan Steel Limited (H.S.L.), a Government of India undertaking. In the year 1973, Government of India formed a new Company, namely, Steel Authority of India Limited (SAIL), and another new Company known as Metallurgical & Engineering Consultants (India) Limited (MECON). The Central Engineering Design Bureau (CEDB) a department of H.S.L. was transferred and merged in the MECON. Subsequently, after enactment of the Public Sector Iron and Steel Companies (Restructuring) Miscellaneous Provisions Act, 1978 (hereinafter to be referred to as ''the Act''), the H.S.L stood dissolved.

2. The appellants accepted the offer of appointment and joined the services in MECON. u/s 15 of the 1978 Act, the appellants being the employees of the transferred unit C.E.D.B. continued as the employees of the corresponding unit of the transferee Company, MECON on the same terms and conditions of the Company and upon the same rights and privileges as to the retirement. Even

after the aforesaid Act came into force, the appellants'' service conditions, particularly the age of superannuation remained as 58 years.

3. It was only in the year 1998 that MECON took a decision to raise the age of superannuation of its employees from 58 to 60 years. The said decision was taken pursuant to the Office memorandum issued by the Government of India on October 31, 2001. The General Manager (Personnel) of the MECON issued a circular, whereby the age of superannuation of all the categories of its employees was again reduced from 60 to 58 years.

4. The appellants along with others challenged the said circular in W.P. (S) No. 5907 of 2001, which was dismissed by the learned single Judge on October 11, 2002. The appellants, therefore, have filed the present appeal against the same.

5. The Government of India in the Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprises issued an Office memorandum dated May 9, 2000, with a proposal to roll back the age of retirement in the case of sick and unviable Public Sector Undertakings, for which rehabilitation of revival packages were under consideration. On January 1, 2001, the said Ministry issued another office memorandum on the same subject, wherein the procedure for rolling back the age of retirement of the employees of sick and unviable Public Sector Undertakings were laid down. This was followed by Office Memorandum dated August 22, 2001, the relevant part whereof is reproduced below:

"OFFICE MEMORANDUM

Subject- Age of retirement of employees of Public Sector Enterprises.

The undersigned is directed to refer to this department''s O.M. of even number, dated January 1, 2001, on the subject mentioned above wherein the decision of the Government that proposals for roll back of age of retirement of employees of sick/unviable P.S.E.s for which rehabilitation/revival packages arc under consideration, which are duly approved by the Board of Directors and also the Minister-in-charge of the administrative Ministry need not be brought before the Cabinet was communicated.

2) The Government has further considered the question of extending the above decision to all P.S.Es. and all categories of employees both Board level and below Board level and it has been decided that henceforth, the Minister-in-charge of the administrative Ministry will have the authority to approve proposals for roll back of age of superannuation from 60 years to 58 years for all P.S.E.s and all categories of employees, both Board level and below Board level, which are duly approved by their Board of Directors."

6. In paragraph 2 of the Office Memorandum dated January 1, 2001, it was clearly provided that the proposal for roll back of age of superannuation from 60 to 58 years for all P.S.E.s covered by the office memorandum dated May 9, 2000, which was duly approved by the Board of Directors of the Company and also the Minister-in-charge of the Administrative Ministry was not to be brought before

 

the Cabinet. Similarly by the office memorandum dated August 22, 2001, the earlier office memorandum dated May 9, 2000, which provided for the roll back of age of retirement of the employees of only sick/unviable enterprises for which rehabilitation/revival packages were under consideration, was also done away with. The paragraph 2 thereof clearly provided that the decision shall cover all the Public Sector Undertakings and also all the categories of employees and the Minister-in-charge of the Administrative Ministry will have the authority to approve the proposals to roll back of the age of superannuation. Thus, in our view, the office memorandum dated August 22, 2001, the age of superannuation of all the categories of employees, working in the Public Sector Undertakings could be reduced to 58 years, irrespective of the fact whether it was sick/ unviable or profit making undertaking. The decision of the Board of Directors of the Company-MECON to roll back the age of superannuation of below Board level employees therefore, cannot be challenged on the ground that the same is contrary to the policy decision of the Government of India.

7. In the aforesaid circumstance, we do not find any reason to interfere with the impugned order passed by the learned single Judge. There is no merit in this Appeal. It is dismissed accordingly.