
(1999) 07 DEL CK 0092

In the Delhi High Court

Case No : CM. No. 8018/98 in CWP. No. 4276/98

Ram Kripal Misra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-07-1999

Acts Referred:

Citation : (1999) 50 DRJ 775

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Yatendra Sharma, for the Appellant; A.P.S. Ahluwalia, for Respondent No. 1, U.N. Sharma and G.C. Sharma, for the Respondent

Judgement

A.K. Sikri, J.—The petitioner is employee of Respondent No. 3/Delhi Consumers Cooperative Wholesale Stores Ltd. (hereinafter recalled as "DCCWS"). He was appointed as Helper on 29.11.66. However, on 4.12.67 he was declared surplus and his services were terminated. He was again temporarily appointed as Chowkidar w.e.f. 21.3.68. Later on he was confirmed to the said post. Petitioner was attaining the age of 58 years on 31.3.98, which is the age of superannuation as per the service conditions of employees of DCCWS. Accordingly, petitioner received letter dated 5.8.98 from DCCWS informing him that he would stand retired from 31.3.98. It is the case of the petitioner that on 13.8.98 Office Memorandum was issued by Central Government raising the retiring age of Central Govt. employees from 58 years to 60 years and as per that Circular, which was applicable to all Departments, Local Bodies / Public Undertakings and Autonomous Organisations of Government of N.C.T. of Delhi, the petitioner had right to continue in service up to the age of 60 years i.e. up to 31.8.2000. Accordingly, he made representation dated 22.8.98 against letter dated 5.8.98 proposing to retire him w.e.f. 31.8.98. Receiving no response, petitioner filed this petition in which show cause in the petitioner as well as notice in CM. 8018/98 was issued on 27.8.98. Interim order was passed to the effect that Respondent No.3 i.e. DCCWS shall not give effect to the impugned order dated 5.8.98 retiring

the petitioner w.e.f. 31.8.98 till the next date of hearing, which order is continued from time to time. DCCWS/Respondent No.3 has filed detailed counter-affidavit as well as reply to CM. 8018/98 wherein number of objections to the maintainability of writ petition have been raised including the arguments that DCCWS is not instrumentality of "State" or "other Authority" within the meaning of Article 226 of the Constitution of India and is, Therefore, not amenable to the writ jurisdiction.

2. I may mention here that another Writ Petition entitled Shri Dharam Das Dabas Vs. Union of India and others being CWP. No.6152/98, which involves identical question was heard. In the said case also CM.11568/98 for same interim direction was filed in which arguments were heard on 14.7.99 and the orders were reserved. Incidentally, Mr. A. Misra is Advocate on record for the petitioner in both the cases. Counsel for the petitioner adopted same arguments as advanced in the case of Dharam Das Dabas. Even the line of arguments of counsel for the Respondent Mr. G. C. Sharma was also same as that of counsel for respondent in CWP.No.6152/98. By order of even date, I have disposed of miscellaneous applications in the case (if Dharam Das Dabas whereby I have dismissed the application of the petitioner and vacated the interim order. Therefore, I need not elaborately mention the arguments of both the parties and my reasons for dismissing CM. 8018/98 in this case as well. Copy of order passed in the case of Sh. Dharam Singh Dabas may be placed in this file as well.

3. This CM. 8018/98 is hereby dismissed and interim order dated 28.8.98 is hereby vacated.

4. No order as to costs.