

(2010) 07 KL CK 0185

In the High Court Of Kerala

Case No : Writ Petition (C) No. 13493 of 2010

Ramani Bai, N. (Dr.) and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 19-07-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 162, 226
Kerala Service Rules, 1958 — Rule 60

Citation : (2010) 3 SLR 617

Hon'ble Judges : C.T. Ravikumar, J

Bench : Single Bench

Advocate : K.R.B. Kaimal, Sebastian Champappilly, Annie George, James Koshy, T. Sanjay, P.S. Sreedharan Pillai, C.G. Preetha, T.K. Sandeep, Arjun Sreedhar and Babu Joseph Kuruvathazha, for the Appellant; T.B. Hood, Sr. Government Pleader, Sandesh Raja, Government Pleader, Elvin Peter, P.J., P.A. Mohammed Shah, T.P.M. Ibrahim Khan, Asst. Solicitor General, C.K. Jayakumar, CGC and Alexander Thomas, S.C., MCI, for the Respondent

Judgement

C.T. Ravikumar, J.—Common issue based on common facts calls for consideration in all these Writ Petitions and therefore, they were heard jointly and are being considered together in this common judgment.

2. The Petitioners belong to the teaching staff either in the Government/Aided Ayurveda Colleges or under the Government Homeopathic Medical Colleges and they hold different designations in different disciplines. The Petitioner in W.P. (C) No. 13841/2010 is the Director of Ayurveda Medical Education. The prayer in these Writ Petitions, in essence, is for extending the benefit of G.O. (Ms.) No. 14/2010/H & FWD, dated 14-1-2010 to the colleges under the aforesaid two systems of medicines viz., Ayurveda and Homeopathy and to issue a writ of mandamus commanding the Respondents to retain them in service. In some of these Writ Petitions, such retention is sought in exercise of the powers under Rule 60(a) Chapter VIII of Part I of the Kerala Service Rules (hereinafter referred for brevity "KSR" only). In some other Writ Petitions it is sought citing the

pendency of a proposal to enhance the retirement age in these services. The prayers in these Writ Petitions would thus reveal that the Petitioners seek for retention in service beyond the age prescribed for superannuation in their respective departments under Rule 60(c) of Part I of the KSR. It is to achieve the said purpose that the Petitioners rely on the said G.O. dated 14-1-2010 and claim for extension of the benefits granted thereunder to the Government/Aided Ayurveda Colleges and Government Homeopathic Medical Colleges.

3. As per G.O. (Ms.) No. 14/2010/H&FWD, dated 14-1-2010 the Government have ordered that the retirement age of the doctors in the medical category under the Medical Education Service be increased to 60 years from the existing 55 years with retrospective effect from 1-5-2009. It is specifically ordered thereunder that the said order would not be applicable to the faculties in the Dental, Nursing, Pharmacy and Non-medical categories under the Medical Education Service. Evidently, the relevant provisions under the KSR were not correspondingly amended. Thus, solely by virtue of the said G.O. dated 14-1-2010, the doctors in the medical category under the Medical Education Service are continuing in service beyond the age of 55 years. The age of compulsory retirement of doctors in the medical category under the Medical Education Service is also governed by the provisions under the KSR. It is in the said background that the Petitioners seek extension of the applicability of G.O. dated 14-1-2010 to Ayurvedic and Homeopathic Colleges so as to get retention in service up to 60 years of age as in the case of doctors in the medical category under the Medical Education Service.

4. I have heard the learned Counsel for the Petitioners and also the learned Government Pleader.

5. The Petitioners in these Writ Petitions did not challenge the validity of G.O. (Ms.) No. 14/2010/H & FWD, dated 14-1-2010. As already noticed, their grievance and objections are against the action in confining its applicability only to the doctors in the medical category under the Medical Education Service. In other words, their grievance pertains to the exclusion of teaching staff in the Ayurveda and Homeopathy Colleges from the purview of the said G.O. To contend that the said action is arbitrary, irrational and discriminatory and to claim for extension of its applicability, the Petitioners have raised various grounds.

6. Firstly, it is contended that limiting the enhancement of retirement age to 60 years from the existing 55 years only to the doctors in the medical category under the Medical Education Service is violative of Articles 14 and 16 of the Constitution of India. According to them, hitherto the teaching staff under the Medical Education Service and also in Ayurveda Colleges and in Homeopathic Medical Colleges both under the Government and Aided Sector, are being governed by exactly identical set of service rules. Their duties and responsibilities as also the service conditions were similar. Most importantly, the age of compulsory retirement of doctors in the medical category under the Medical Education Service and the teaching staff in the colleges under the other systems

in the Government or in the aided sector are being governed by Rule 60(c) of Part I KSR. To bring home the aforesaid contentions, the Petitioners firstly, brought to my attention the fact that with a view to bring the entire systems of medicines under the same University, the Kerala University of Health and Allied Sciences Ordinance, 2009 was brought in. In the light of the preamble to the said Ordinance and other provisions thereunder it is contended that the declared policy of the Government is to give equal treatment to all the systems of medicine. G.O. (P) No. 915/98/(156)/Fin., dated 11-3-1998 was relied on to drive home the point that acceding to the requests to equate the duties and functions of teaching staff of Ayurveda Colleges and Government Homeo Medical Colleges with that of teaching staff of Medical Colleges coming under the Directorate of Medical Education for the purpose of extending the benefit of AICTE scales Government have effected pay parity among them. That apart, it is their contention that a perusal of the said G.O. dated 14-1-2010 would reveal that it is the dearth of qualified and experienced medical faculties in many subjects in Government Medical Colleges in the State that led to the decision of the Government in G.O. dated 14-1-2010. In the said G.O. dated 14-1-2010, it is stated thus:

There is shortage of qualified and experienced medical faculties in many subjects in the Government Medical Colleges in State. The retirement age of the faculty including medical doctors is 55. Due to the retirement of experienced doctors in many departments over the past few years and dearth of eligible hands in the middle level cadres for promotion, the recognition of many postgraduate medical courses have been adversely affected. Similarly, the retention of senior professors in service will help the State to increase the number of Postgraduate Seats as per the revised norms of the Medical Council of India. At the National level, the retirement age of doctors in Medical Colleges is 65 years and there is a proposal to enhance the same to 70 years. As such the retention in service of the highly qualified and well experienced doctors will be a boon to the State.

7. Based on data and details revealing shortage of qualified faculties in Government/Aided Ayurveda Colleges and Government Homeopathic Medical Colleges, it is contended that the circumstances that compelled the Government to take the decision to increase the retirement age as per Ext. P-4 G.O. dated 14-1-2010, in respect of doctors in the medical category under the Medical Education Service exist in the case of teaching staff under the Ayurveda and Homeopathic Medical Colleges. Considering the fact that all throughout they were being governed by similar service conditions and also the aforesaid fact Government should not have treated them differentially and discriminately, it is contended. According to the Petitioners, teaching staff of colleges under the three systems of medicine have been, hitherto, regarded as one group and therefore, the present action in excluding them from the purview of the said G.O. dated 14-1-2010 amounts to hostile discrimination and thus violates the equality clauses under Articles 14 and 16 of the Constitution of India. It is in the said circumstances that the Petitioners claim for extension of the benefit of G.O. (Ms.)

No. 14/2010/H&FWD, dated 14-1-2010. However, conspicuously, the Petitioners in all these Writ Petitions did not directly seek enhancement of their retirement age from 55 years to 60 years. Presumably, it is because they are fully astute to the fact that the age of their compulsory retirement is being governed by the provisions under Rule 60(c) of Part I KSR.

8. A statement has been filed on behalf of the first Respondent in W.P. (C) No. 13507/2010 and the same was adopted in the other Writ Petitions also. The crux of the contentions made thereunder is that the compulsory retirement age of the teaching staff under the Ayurveda Education Service as also the Government Homeopathic Medical Education Service are governed by Rule 60(c) of Part I KSR. According to the Respondents, in such circumstances, the Petitioners did not have any legal and rightful claim to continue in service beyond the age of superannuation applicable to them by virtue of the aforesaid provision under the KSR. Further it is stated therein that the decision to enhance the retirement age of doctors in the medical category under the Medical Education Service was taken based on various factors such as dearth of qualified and experienced medical faculties in modern medicine and the difficulties which would arise on account of retirement of such doctors in modern medicine in the matter of functioning of medical colleges. In short, according to them, it was considering the said peculiar circumstances and in the interest of medical students and the State as a whole that the Government took the decision to enhance the age of superannuation of the teaching staff in the medical category of Medical Education Service as per G.O. dated 14-1-2010. That apart, it is specifically stated thereunder that even under the medical education service, the application of the said G.O. dated 14-1-2010 is confined only to the medical category and thus the other faculties in Dental, Nursing, Pharmacy and Non-medical categories have not been brought within the purview of the said G.O. dated 14-1-2010. It is further contended therein that the fixation of retirement age and the enhancement thereof is a policy matter and therefore, in respect of such matters, there is no scope for judicial review as has been held in a catena of cases by the Hon''ble Apex Court. Relying on the decision of this Court in W.A. No. 591/2010 and connected cases wherein the claim for enhancement of retirement age based on the revised UGC scheme and the recommendations of College Teachers was rejected, it is therefore contended that documents produced by the Petitioners are of no relevance and these Writ Petitions are liable to be dismissed.

9. As noticed hereinbefore, the action on the part of the Government in limiting the applicability of the said G.O. dated 14-1-2010 to the doctors in the medical category under the Medical Education Service and its non-extension to the services to which they belong are assailed by the Petitioners mainly on the ground violation of equality clause enshrined under Articles 14 and 16 of the Constitution of India. There cannot be any doubt that justiciable legal right would emanate from an hostile discrimination and violation of equality clauses under Articles 14 and 16 of the Constitution of India. Before delving further into the

facts and merits of their contentions, it is relevant to look into certain other aspects of the issue.

10. It is a common case that the compulsory retirement of teaching staff under the Medical Education Service (Modern Medicine), the Ayurveda Medical Education Service and the Homeopathic Medical Education Service are governed under Rule 60(c) of Part I, KSR. Admittedly, no amendment was brought to the aforesaid statutory provision enhancing the age of retirement from 55 years to 60 years. No such amendment was brought into Rule 60(a) as well. True that in the case of medical category under the Medical Education Service as per G.O. dated 14-1-2010, the Government have taken a decision to enhance their retirement age from 55 years to 60 years. The contention of the Petitioners is that while considering the question whether the said G.O. dated 14-1-2010 violates Articles 14 and 16 of the Constitution of India based on the aforesaid specific contentions, it is absolutely unnecessary to look into the legality and validity of the said G.O. In that context the Petitioners contend that there is no challenge at all in any of these Writ Petitions against the G.O. dated 14-1-2010. I am afraid, I cannot countenance with the said contention. Whenever an executive order is challenged as being violative of the equality clauses enshrined under Articles 14 and 16 of the Constitution of India and contended that its application is liable to be extended to certain other categories over and above the beneficial categories under the original order, Court cannot blindly examine that aspect alone without considering and looking into the legality and validity of the concerned G.O. I am of the considered view that in such cases, it will be the bounden duty of the court to undertake such an examination lest it may result, at least in some cases, in perpetuating an illegality. Therefore, as part of its survey regarding the sustainability of the contentions of the legal right of the concerned parties and to arrive at a conclusion whether it is liable to be made applicable to other categories accepting the contentions raised for that behalf such an endeavour is not merely essential but it is in fact, a dutiful obligation of the Court. I am fortified in my view by the decisions of the Hon''ble Apex Court reported in Kameshwar Prasad Singh and Anr. v. State of Bihar J.T. 2000 (5) S.C.C. 389 and Ekta Shakti Foundation v. Government of NCT of Delhi 2006 (3) KLT 601. In the decision reported in JT 2000 (5) S.C.C. 389 (supra), the Hon''ble apex court held that two wrongs can never make a right. The concept of equality of Article 14 of the Constitution of India is a positive concept which cannot be enforced in a negative manner when any authority or Court is shown to have committed an illegality or irregularity in favour of an individual or group of individuals, they cannot claim similar benefits. Paragraph 16 in the decision of the Hon''ble apex court in 2006 (3) KLT 601 (supra) is also relevant in this context. It reads thus:

The concept of equality as envisaged under Article 14 of the Constitution is a positive concept which cannot be enforced in a negative manner. When any authority is shown to have committed any illegality or irregularity in favour of any individual or group of individuals other cannot claim the same illegality or

irregularity on ground of denial thereof to them. Similarly wrong judgment passed in favour of one individual does not entitle Ors. to claim similar benefits. In this regard this Court in Gursharan Singh and others etc. Vs. New Delhi Municipal Committee and others, held that citizens have assumed wrong notions regarding the scope of Article 14 of the Constitution which guarantees equality before law to all citizens. Benefits extended to some persons in an irregular or illegal manner cannot be claimed by a citizen on the plea of equality as enshrined in Article 14 of the Constitution by way of Writ Petition filed in the High Court. The Court observed:

Neither Article 14 of the Constitution conceives within the equality clause this concept nor Article 226 empowers the High Court to enforce such claim of equality before law. If such claims are enforced, it shall amount to directing to continue and perpetuate an illegal procedure or an illegal order for extending similar benefits to Ors. . Before a claim based on equality clause is upheld, it must be established by the Petitioner that his claim being just and legal, has been denied to him, while it has been extended to Ors. and in this process there has been a discrimination.

According to me, even in the absence of any challenge against such an order like G.O. dated 14-1-2010, for the limited purpose of considering whether the claim for extension of the benefits granted thereunder is sustainable, the court is bound to look into the legality of the concerned G.O. to ensure that a favourable order would not be one that perpetuates an illegality. In W.P. (C) No. 13507/2010, the additional Respondents 2 and 3 are working as Associate Professor and Assistant Professor respectively in the Department of Prasoothi Thantra in Ayurveda College Service. They contend that in accordance with the statutory provisions in Rule 60, Part I, KSR binding on the Petitioner in the Writ Petition and all the teaching staff in the Ayurveda College Service, the Petitioner in the Writ Petition was due to retire from service on 30-4-2010 and in the resultant vacancy, the 2nd Respondent is entitled to be promoted as Professor and in the consequential vacancy, the third Respondent is entitled to be promoted as Associate Professor. They also contend that a proposal for amendment to the statutory provisions under Rules 60(a) and (c) of Part I of KSR cannot confer right of continuance beyond the age of compulsory retirement in terms of the statutory provisions. In short, according to the Respondents, the Petitioners are not entitled to claim extension of the benefits conferred under G.O. dated 14-1-2010 and in that matter to claim for continuance up to 60 years. The learned Counsel appearing for additional Respondents 1 and 2 contended that the G.O. dated 14-1-2010 itself is unsustainable.

11. I may, now, examine the provisions governing the compulsory retirement in respect of the Petitioners who belong to the teaching staff either in Government/ Aided Ayurveda Colleges or the Government Homeopathic Medical Colleges. Indisputably, the compulsory retirement of all the categories to which the Petitioners belong are governed by Rule 60(c) of Part I, KSR. No statutory

amendment was brought into the said relevant statutory provision in the matter of age of retirement mentioned thereunder. Rule 60(c) of Part I, KSR reads thus:

60(c): The teaching staff all educational institutions (including Principals of Colleges) who complete the age of 55 years during the course of an academic year shall continue in service till the last day of the month in which the academic year due, before the last day of the month in which they attain the age of 55 years. But they shall not be eligible for increment or promotion during the period of their service beyond such date. If they are on leave on the day they attain the age of 55 years and if there is no prospect of their returning to duty before the closing day of the academic year for vacation they shall be retired with effect from the last day of the month in which they attain the age of 55 years. But in cases where officers coming under this rule are under suspension on the date of superannuation or thereafter the date of superannuation or on the date of suspension whichever is later.

If, however, the day on which the teaching staff (including Principals of Colleges) attain the age of 55 years falls within the period of one month beginning with the day of reopening of the institutions they shall cease to be on duty with effect from the date of such reopening and they shall be granted additional leave from the date of reopening to the last day of the month in which they attain the age of 55 years. They shall be entitled to the benefit of increment if it falls due before the actual date on which they attain the age of 55 years.

12. In the light of the above extracted provision, the persons who are governed by the aforesaid provision including the Petitioners are liable to retire from service on their respective dates of retirement in the light of the aforesaid provision. In G.O. (Ms.) No. 14/2010/H & FWD the extension of which is sought by the Petitioners, it is stated hereunder:

necessary amendments in this regard in the KSR, other service rules and relevant G.Os. related to the doctors in the medical category under the Medical Education Service be issued separately.

(emphasis supplied)

The above extracted portion from the above G.O., produced as Ext. P-2 in W.P. (C) No. 13507/2010, itself would suggest that necessary amendments in this regard in the KSR is essential. The G.O. dated 14-1-2010 is only an executive order. By such an executive order, the relevant provisions under the statute cannot be amended. The question is whether the prayer for extension of the applicability of the G.O. on the ground that restriction of its applicability to doctors in the medical category under the Medical Education Service is arbitrary and discriminatory and violative of equality clauses under Articles 14 and 16 of the Constitution of India. As observed earlier, this Court cannot blindly issue a writ of mandamus merely because as per the said G.O. dated 14-1-2010, the age of retirement of the particular category mentioned has been enhanced. In this context, it is to be noted that the requirement of corresponding amendment

to the KSR and other service rules and relevant G.Os. related to the doctors in the medical category under the Medical Education Service is virtually admitted by the first Respondent in the G.O. itself as is obvious from the above extracted portion of the said G.O. There is no contention for the Petitioners that in tune with the G.O. dated 14-1-2010 the relevant statutory provisions viz., Rules 60(a) and (c) were amended. The said G.O. dated 14-1-2010 also did not reveal the source of power. According to the Petitioners, it can only be Rule 60(a) of Part I, KSR Rule 60(a) is worthwhile to be extracted in this context. It reads thus:

60(a): [Except as otherwise provided in these rules the date of compulsory retirement of an officer shall take effect from the afternoon of the last day of the month in which he attains the age of 55 years]. He may be retained after this date only with the sanction of Government on public grounds which must be recorded in writing, but he must not be retained after the age of 60 years except in very special circumstances.

13. Obviously, in most of the Writ Petitions, the Petitioners seek issuance of a writ of mandamus commanding the Respondents to permit them to continue in service beyond 55 years, relying on the G.O. dated 14-1-2010 by virtue of Sub-rule (a) of Rule 60 of Part I KSR. Decision of a Division Bench of this Court in Assistant Educational Officer v. Velayudha Kurup reported in 1980 KLT 790 assumes relevance in this context. It is held that Rule 60(a) is only a general provision and its applicability stands excluded in respect of teaching staff by reason of the existence of a special provision made in respect of them in Clause (c) of Rule 60. In fact, as per the said provision, teaching staff of all Educational Institutions (including Principals of Colleges) made a separate class in the matter of retirement and have been given the privilege of continuance in service till the end of the academic year even on completion of 55 years of age during the course of an academic year subject to the condition stipulated therein and such classification has been made to protect the interest of the students see the decision in Mathai v. State of Kerala reported in 1994 (1) KLT 1027. In Govindan Kutty v. State of Kerala reported in 1988 (1) KLT 501, a Division Bench of this Court held that though Rule 60(a) prescribed 55 years as the age of superannuation, it vested power with State Government to relax the said provision and to give extension on public grounds to be recorded in writing. Further it was held that what was required to be examined was whether the public grounds justify grant of extension to that particular person. Therefore, even if it can be granted to a group of individuals, it could be granted subject to the satisfaction of such grounds by the State Government. Under the said rule, it is entirely upon the State Government to decide whether such continuance beyond the normal date of compulsory retirement is necessary on public grounds. As noticed hereinbefore, Rule 60(a) is not applicable to teaching staff. There is nothing in the said G.O. dated 14-1-2010 which would suggest that the same was issued by invoking power under Rule 60(a) of Part I KSR. That apart, in the light of Rule 60(c), Rule 60(a) cannot be said to be the provision applicable to teaching staff of all Educational Institutions. Admittedly, no amendment was

brought in to the said statutory rule. There cannot be any doubt that statutory provision available on the date of compulsory retirement of an employee should govern his/her case.

14. In view of the aforesaid discussion, I do not think it necessary to delve into the contentions raised by the Petitioners that hitherto they have been treated at par with the teaching staff under the Medical Education Service and that they were enjoying the benefits of same service conditions including that of the age of superannuation. The contentions regarding the dearth of qualified hands in their respective disciplines under their systems of medicines to which they belong also cannot improve their case. Such matters may weigh with the Government and may prompt the Government to bring appropriate amendments to the relevant statutory provisions in accordance with law. At any rate, in view of the aforesaid reasons, I am of the considered view that the G.O. dated 14-1-2010 cannot be directed to be extended in the case of the Petitioners or in the light of the same or in the light of Rule 60(a) of Part I KSR they can be directed to be retained beyond the normal date of compulsory retirement. In other words, even a finding that they are similarly situated to the doctors in the medical category under the Medical Education Service will not confer any jurisdiction to command the Respondents to permit continuance of the Petitioners beyond the normal date of compulsory retirement in view of Rule 60(c) merely relying the G.O. dated 14-1-2010. Going by the decision of this Court in *George, M.I. v. High Court of Kerala* reported in ILR 2010 Ker 213, this Court cannot issue any direction or writ to the rule making authority to frame or amend a statutory rule in a particular manner. The Petitioners also did not have any legal right to contend that the rule should be amended in a particular manner. I am of the view that the Petitioners cannot be heard to contend that ignoring the prevailing rule position obtained from Rule 60(c) of Part I KSR writ of mandamus be issued commanding the Respondents to permit them to continue in service in their respective posts solely based on an executive order like G.O. dated 14-1-2010 as the executive power of a State under Article 162 of the Constitution of India cannot be exercised to issue an order contravening any legislation already covering the field. Though it is true that in the matter of fixation of the age of retirement, the same is within the discretion of the executive Government, a statutory provision prescribing such age of retirement cannot be bypassed by an executive order. In the decision *K. Nagaraj and Others Vs. State of Andhra Pradesh and Another*, the Hon'ble Apex Court held in the matter of age of retirement, an employee has to retire from service in terms of the provisions as it existed on the date of his superannuation.

15. The learned Counsel for the Petitioners have also brought to my attention the fact that this Court as per judgment dated 29-3-2010 in W.P. (C) No. 10709/2010 [Ext.P-5 in W.P. (C) No. 13537/2010] directed the Government to consider and pass orders on Ext.P-4 therein that carried a request for raising the retirement age of doctors of Homeopathic Medical Colleges to 60 years from 55 corresponding to the change of retirement age made in respect of the doctors in the medical category under the Medical Education Department. According to the

Petitioners, in the light of the same, it would only be appropriate for this Court to issue writ or direction to the Respondents to permit them to continue in service in their respective posts till a decision is taken by the first Respondent pursuant to the said judgment. In the context of the said contention, the following judgment assumes relevance. In W.P. (C) No. 11673/2006 and connected cases, this Court has passed Ext.R-2(b) judgment dated 25-5-2006. In paragraph 4 of the said judgment, it is stated thus:

This Court has already dismissed a few writ petitions, filed by some of the Government Servants, praying to retain them in service, in the light of the Pay Commission report, recommending to enhance the retirement age to 58 years and the order of the Government dated 17-3-2006, accepting the recommendations of the Pay Commission in toto. Two of those judgments were affirmed by the Division Bench of this Court in W.A. Nos. 656 and 659 of 2006. In the common judgment in those appeals, it was held as follows:

The recommendations of the Pay Revision Commission remain as recommendations and even though the Government has accepted it in toto, unless consequential changes are brought in the Service Rules, it may not be possible for the Petitioners to contend that automatically the retirement age of an employee is to be deemed as different that that was laid down by the statutory rules.

In paragraph 3 of the said judgment, it is held thus:

As per the existing Rules, as stated earlier, the age of retirement is 55 years. Until the said Rule is amended by the Hon''ble Chief Justice either by himself or with the approval of the Governor, the employees of the High Court have to retire at the age of 55 years. I may not be understood as having decided that this is a matter in which the Hon''ble Chief Justice is competent to amend the Rules without the approval of the Governor. No one has a case that an amendment to the existing Rule, concerning retirement age, has been notified and the amendment has come into effect. At best, what can be contended is that the matter is now under the active consideration of the constitutional functionaries. But, the same will not have the effect of amending the Rules, enabling the Petitioners to continue beyond the age of 55 years.

That apart, in the decision *George v. State of Kerala* reported in 1992 (1) KLT 793, the Hon''ble Apex Court considered the question as to whether a proposal of the University Grants Commission to enhance the age of retirement of teaching staff in the Aided Colleges can be a ground for permitting continuance of the existing staff in service who had completed the age of compulsory retirement beyond the said age. The Hon''ble Apex Court in unambiguous terms held that unless and until the appropriate Government amends the statutory provisions, no employee has a legal right to continue in service beyond the age of his retirement. It is to be noted that even in the judgment in W.P. (C) No. 10709/2010, no direction has been issued to the Respondents to permit

continuance of their retirement till such a decision on Ext. P-4 representation is taken. In the circumstances expatiated above, I cannot uphold the contentions of the Petitioners, even if it is taken that there is a proposal for enhancing the age of compulsory retirement from 55 years to 60 years, pending finalisation of such proposal, they should be retained in service beyond the normal date of retirement. Before parting with the judgment, I may clarify the following: The G.O. dated 14-1-2010 is not directly under challenge in any of these Writ Petitions and the beneficiaries of the said G.O. are also not before this Court. The observations touching the said G.O. dated 14-1-2010 are made in this judgment solely to decide whether ignoring the relevant statutory provisions under Rule 60(c) of Part I KSR, the said G.O. dated 14-1-2010 could be made applicable to the Petitioners so as to enable them to continue in service beyond the normal date of their retirement. Therefore, they shall not be treated as findings relating the legality or validity of G.O. (Ms.) No. 14/2010/H & FWD dated 14-1-2010. The long and short of the discussions is that these Writ Petitions are devoid of merits and accordingly, they are dismissed.