
(2012) 05 AHC CK 0230

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 27627 of 2006

Ramesh Chand Shakma

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 18-05-2012

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Regulation 21

Citation : (2012) 4 AWC 5121 : (2012) 134 FLR 381

Hon'ble Judges : B. Amit Sthalekar, J

Bench : Single Bench

Advocate : N.K. Mishra, P.S. Baghel and Hem Lata Pandey, for the Appellant;

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J.—By means of this writ petition, the petitioner is challenging the order dated 27.3.2006, whereby his claim for payment of gratuity treating his age of retirement to be 60 years has been rejected. There is an institution known as Sri Mahabir Digamber Jain Inter College, Sirsaganj, Firozabad (College). The said institution is stated to be a recognised and aided college. The petitioner was initially appointed in the college as lecturer (Mathematics) on 1.10.1973. On 4.9.1998, he was given officiating charge of Principal from 4.9.1998 to 30.6.2004 and he retired from service on 30.6.2004 on attaining the age of superannuation of 58 years. The contention of the petitioner is that in terms of G.O. No. 395/15-8-99/3003(78)/90 dated 17.2.1999, he had exercised his option for treating his age of superannuation as 60 years instead of 58 years. This G.O. has been filed by him as annexure No. 1 to the rejoinder affidavit.

2. I have heard Sri N.K. Mishra, learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. The contention of the petitioner is that in terms of the G.O. dated 17.2.1999, he had exercised his option. The said option has been filed by him as Annexure No. 3 to the writ petition. A perusal of the same would show that it refers to

another G.O. dated 4.2.2004 which provides that those retiring at the age of 58 years would be deemed to be retired on attaining the age of 60 years and those whose age of superannuation is 60 years would be deemed to be retired on attaining the age of 62 years.

4. As per G.O. dated 4.2.2004, all earlier Government Orders would stand superseded.

5. A perusal of the G.O. dated 17.2.1999 which has been filed as Annexure No. 1 to the counter-affidavit filed by the State, mentions that those who would be retiring on attaining the age of 58 years, they would have to exercise their option before the first day of July of the academic year in which they would be retiring.

6. The submission of the learned Standing Counsel is that the date of retirement of the petitioner is 30.6.2004 and as per the G.O. dated 17.2.1999, the petitioner would have to submit his option at least one year before the first day of July of the academic year.

7. Admittedly the option submitted by the petitioner was exercised by him after coming into force of the G.O. dated 4.2.2004 since the said G.O. finds mention in the alleged option letter. Therefore, it is clear that the petitioner did not exercise his option before the period of one year from the Ist day of July of the academic year in which he was to retire. The petitioner along with his rejoinder affidavit has also filed another G.O. dated 6.1.2005 which seeks to substitute Regulation 21 of Chapter III of the U.P. Intermediate Education Act, 1921, wherein the age of superannuation of those superannuating on attaining the age of 58 years has been increased to 60 years and those superannuating on attaining the age of 60 years has been enhanced to 62 years. The said G.O. provides that the persons opting under the scheme for the enhanced age of superannuation may submit their option two months prior from the date of retirement.

8. This circular dated 6.1.2005 has no application in the case of the petitioner as the petitioner already stood retired from service on 30.6.2004.

9. Besides even in terms of the G.O. dated 17.2.1999, the petitioner never exercised his option before one year from the first day of July of the academic year. In the circumstances, I find absolutely no error in the order dated 27.3.2006.

The writ petition fails and is accordingly dismissed.