
(1988) 10 BOM CK 0034
In the Bombay High Court
Case No : Writ Petition No. 2276 of 1988

Ramjitayappa Chavan

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 28-10-1988

Acts Referred:

Maharashtra Civil Services (Pension) Rules, 1982 — Rule 10(4)

Citation : (1988) 4 BomCR 623 : (1989) 91 BOMLR 11 : (1989) MhLj 87

Hon'ble Judges : S.W. Puranik, J;B. Lentin, J

Bench : Division Bench

Advocate : A.V. Bandivadekar, for the Appellant; D.I. Patil, A.G.P, for the Respondent

Final Decision : Allowed

Judgement

B. Lentin, J.—To equate public interest with Govt. convenience is a mistake. Such is the ratio of this judgment.

2. The petitioner joined the Police Force as a police constable on 1st October, 1955. In due course of time he was promoted to Head Constable. On 29th April, 1987, an order of compulsory retirement was passed against him. Hence the present writ petition.

3. The impugned order is passed under sub-clause (b) of sub-rule (4) of rule 10 of the Maharashtra Civil Services (Pension) Rules, 1982. By this order, the petitioner is compulsorily retired on the ground that he has completed 52 years of age and as such, has completed 31 years of service. Hence he is compulsorily retired for the purpose of convenience of Government.

4. No affidavit in-reply has been filed.

5. The impugned order is on the face of it bad in law. It does not conform to the provisions of Rules 10(4)(b). That rule empowers the authority to compulsorily retire Government servants if it is in the public interest to do so and also

empowers Govt. to retire Class III Government servants after they have attained the age of 55 years.

6. In the present case, the petitioner who was born on 17th September, 1934, would be completing 55 years in 1989 and had not completed it on 29th April, 1987 when the impugned order was passed. Further sub-rule (4) does not provide for compulsory retirement on the ground of Government's convenience as stated in the impugned order, but in public interest. For obvious reasons, the one cannot be equated with the other. Thus on both these counts, the impugned order must be set aside.

7. The writ petition is allowed in terms of prayer (vi). The petitioner shall be entitled to all the benefits due to him as if the impugned order had not been passed.

8. The Rule is made absolute accordingly with costs.