

(2009) 05 KL CK 0030

In the High Court Of Kerala

Case No : WP (C) . No. 13391 of 2009 (T)

Saseendran, Raveendra Hasan and Ittoop Varghese

APPELLANT

Vs

Secretary to Government and Centre for Water Resources
Development

RESPONDENT

Date of Decision : 23-05-2009

Acts Referred:

Citation : (2009) 05 KL CK 0030

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : Nair Ajay Krishnan, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

P.N. Ravindran, J.—Heard the learned Counsel appearing on both sides.

2. The petitioners are Technical Assistants working in the Centre for Water Resources Development and Management. They claim continuance in service till they attain the age of 60 years relying on Ext.P4 Government Order dated 6-12-1987.

3. Paragraph 3 of Ext.P4, which is relevant for the purpose of this case, reads as follows:

3. Government, therefore, direct all Research and Development Centres under Science, Technology and Environment Department to strictly adopt the following directions while prescribing the pay and service conditions of Scientific and non-scientific staff:

(i) Only the scientists (or equivalents) need be provided with CSIR/ICAR/UGC/ of the Central Government scales of pay, allowances and comparable service conditions and all the rules governing such things should be identical with any one of the organizations such as CSIR/ICAR/UGC/ of the Central Government. In

no case more financial benefits than that are provided in CSIR/ICAR/UGC/Central Government will be granted to the scientists (or equivalents) of these autonomous Institutions.

(ii) All other employees of these autonomous bodies should be governed by State Govt. scales of pay, allowances and comparable service conditions. In no case, such employees shall be given more financial benefits than what are provided to the similar State Government Employees.

(iii) Present incumbents of Non-scientific cadre in various autonomous institutions who were already provided with CSIR/ICAR/UGC/Central Govt. scales of pay and allowances may continue to have them as a very special case and it will be personal to them only. All future recruitments in these cadres will follow State Government scales of pay, allowances and comparable service conditions.

4. It is not in dispute that as per the rules governing their service conditions, the petitioners who are non-scientific staff have to retire from service at the end of the month in which they attain the age of 58 years. They, however, claim that by reason of the stipulations in sub paragraph (iii) of paragraph 3 of Ext.P4, they are entitled to continue in service till the last day of the month in which they attain the age of 60 years. The petitioners are admittedly non-scientific staff. Therefore, sub paragraph (i) of paragraph 3 of Ext.P4 does not govern them. Sub paragraph (iii) of paragraph 3 of Ext.P4 which the petitioners rely on states that their service conditions are comparable to the service conditions of State Government employees. In other words, the petitioners who are non-scientific staff cannot claim relying on sub paragraph (iii) of paragraph 3 that their age of retirement should be reckoned as 60 years. On the other hand, Rule 4(1) of the Rules framed by the second respondent stipulates that employees in the administrative/technical categories shall retire from service with effect from the last day of the month on which they attain the age of 58 years. The said rules also provides that for scientific staff , the retirement age is 60 years.

5. In the light of the clear stipulations in Rule 4(1) of the Rules, which is not under challenge in this writ petition, the petitioners cannot claim that they are entitled to continue in service till they attain the age of 60 years. Ext.P4 relied on them does not, in my opinion, provide that petitioners are entitled to continue in service till they attain the age of 60 years. In any case, Ext.P4 cannot supersede the rules.

The writ petition fails and is accordingly dismissed.